

STATE OF CALIFORNIA  
THE RECLAMATION BOARD  
REGULAR BOARD MEETING

RESOURCES BUILDING  
1416 NINTH STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

FRIDAY, JANUARY 19, 2007

9:07 A.M.

KATHRYN S. KENYON, CSR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Butch Hodgkins, Vice President

Ms. Lady Bug Doherty, Secretary

Ms. Rose Marie Burroughs, Member

Ms. Teri Rie, Member

STAFF

Mr. Jay Punia, General Manager

Mr. Stephen Bradley, Chief Engineer

Mr. Dan Fua, Supervising Engineer

Ms. Nancy Finch, Legal Counsel

Mr. Scott Morgan, Legal Counsel

Ms. Lori Buford, Staff Assistant

DEPARTMENT OF WATER RESOURCES

Mr. Rod Mayer, Chief, Division of Flood Management

Mr. Keith Swanson, Chief, Flood Maintenance Office

ALSO PRESENT

Mr. Rex Archer

Mr. John Bassett, SAFCA

Mr. Paul Brunner, TRLIA

APPEARANCES CONTINUED

Mr. Joe Countryman

Mr. Tom Foley, CCRG

Mr. John Hess, U.S. Army Corps of Engineers

Mr. Tim Kerr, American River Common Features Project

Mr. Rick Rinehart, MBK Engineers

Mr. Don Schrader, Yuba County Board of Supervisors

Mr. Scott Shapiro, TRLIA

Dr. Dale Smith, CCRG

Mr. Wes Tilton

Mr. Tim Washburn, SAFCA

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## CONSENT

9. Consent Calendar - None

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1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and  
3 gentlemen. I would like to call the meeting to order.  
4 8:35.

5 And if we could, General Manager Punia, could you  
6 call the roll, please.

7 GENERAL MANAGER PUNIA: Jay Punia, general  
8 manager, Reclamation Board. For the record, except Board  
9 Member Teri Rie, all the Board members are present.

10 PRESIDENT CARTER: Okay. Thank you. At this  
11 time, we'll go ahead and enter into a closed session to  
12 discuss litigation, the Natural Resources Defense Council  
13 versus Reclamation Board, Case No. 06CS01228. And this  
14 closed session is pursuant to Government Code  
15 11126(e)(2)(A).

16 (Thereupon the closed session was held.)

17 PRESIDENT CARTER: Good morning, ladies and  
18 gentlemen. Welcome to the State Reclamation Board meeting  
19 for today. For the record, we wanted to let members of  
20 the public know that the Board did enter into closed  
21 session this morning, to discuss litigation, as noted on  
22 Item 2 of the published agenda for today.

23 And so at this point, we are on to Item 3, which  
24 is Approval of Minutes for October 20th, 2006, and also  
25 November 17th, 2006.

1           So we'll entertain a motion to approve or amend.

2           SECRETARY DOHERTY: I make a motion that we  
3 approve the October minutes as presented, if nobody has  
4 any corrections.

5           PRESIDENT CARTER: We have a motion. Is there a  
6 second?

7           VICE PRESIDENT HODGKINS: I will second.

8           PRESIDENT CARTER: We have a second.

9           Any abstention?

10          All those in favor, indicate by saying "aye."

11          (Ayes.)

12          PRESIDENT CARTER: And opposed?

13          The motion carries unanimously.

14          SECRETARY DOHERTY: There are no November minutes  
15 yet.

16          PRESIDENT CARTER: Okay. So we will table the  
17 November minutes until the subsequent meeting.

18          Then on to Item 4, Approval of the Agenda.

19          Mr. Punia?

20          GENERAL MANAGER PUNIA: Yes. Jay Punia, general  
21 manager of the Reclamation Board.

22          I wanted to propose a few changes to -- changes  
23 and additions to the agenda. On Page 1, Item 8, Board  
24 requested that we should invite the U.S. Army Corps of  
25 Engineers to make a presentation.

1           Mr. John Hess from the U.S. Army Corps of  
2 Engineers is here. So the Board accepts, then he would  
3 speak after Item 8.

4           PRESIDENT CARTER: Okay.

5           GENERAL MANAGER PUNIA: Page 2nd, Item 10, Project  
6 or Study Agreements, American River Watershed Common  
7 Features Project, the lead person will be Tim Kerr. And I  
8 propose that we should move this item after Item 16.  
9 Sacramento Area Flood Control Agency will be here to brief  
10 on these projects, and then we should consider it after  
11 their briefing.

12          Moving along, still on Page 2, Item 14,  
13 applications -- Application No. 17659-A, River Partners,  
14 Glenn County. Staff is still working with both parties,  
15 and River Partners are not able to address all the  
16 concerns. So my proposal is to table this item for a  
17 future meeting.

18          I think those are the proposed changes to the  
19 agenda.

20          Thank you.

21          PRESIDENT CARTER: Do any other Board members or  
22 staff have any other suggested changes for the agenda for  
23 today?

24          Okay. So we'll entertain a motion to approve the  
25 agenda as suggested with the following changes: To



1 change -- or make an addition to Item 8 of -- to add  
2 Mr. John Hess to address the Board on that particular  
3 item; to table Item 14.A; and to move -- or to consider  
4 Item 10.A, after we have heard the informational  
5 briefing -- briefings in Item 16.

6 So --

7 SECRETARY DOHERTY: Table it for the future?

8 PRESIDENT CARTER: Right.

9 SECRETARY DOHERTY: I make a motion that we  
10 approve the agenda as amended.

11 PRESIDENT CARTER: Okay. We have a motion.

12 A second?

13 VICE PRESIDENT HODGKINS: Second.

14 PRESIDENT CARTER: Okay. We have a second. Any  
15 other discussion?

16 All those in favor, indicate by saying "aye."

17 (Ayes.)

18 PRESIDENT CARTER: And opposed?

19 The motion carries unanimously.

20 Okay. So we are on to Item 5, which is -- this is  
21 a time for public comments. And these are comments that  
22 we welcome the public to come and address the Board on any  
23 item that is not agendized for today.

24 The -- if you do wish to address the Board on  
25 agendized items, you would be welcomed to do that as well,

1 when those items are heard from the Board. We ask that  
2 the public please limit their comments to five minutes on  
3 their items; and also, that you fill out these little  
4 white cards. There's a stack of them at the table, at the  
5 entrance to the auditorium, as well as they are available  
6 from Lorraine here in the front. So please fill those out  
7 so that we know to recognize you. If we don't have those,  
8 then I may not recognize you.

9 So with that, we will welcome any public comment  
10 on non-agendized items. Is there any member of the public  
11 that wishes to address the Board at this time?

12 Okay. Very good. Then we will move on to Item 6,  
13 Report of the Activities of the Department of Water  
14 Resources.

15 Mr. Mayer? Or Mr. Swanson?

16 Good morning.

17 MR. SWANSON: Good morning. Keith Swanson. I'm  
18 still acting chief, Division of Flood Management.

19 Rod assures me that he is going to come back. And  
20 initially, this was going to be a one-month assignment,  
21 and then it was going to end today.

22 Now he's going to extend on a little bit further.  
23 Don't have an end date for it yet. But I keep telling Rod  
24 that I would appreciate it if he would come back.

25 As far as weather goes, you know, the recent cold

1 snap has ended, although this morning, sitting by the  
2 door, I'm not sure that we are quite out of it yet. You  
3 know, before we talked about the long-term weather  
4 outlook, you know, a slight El Nino condition, normal  
5 weather patterns in northern California and higher  
6 precipitation in the south and the central; we're not  
7 seeing any rain, though. And you know, the -- the  
8 short-term extended forecast is dry weather. And so  
9 people are starting to discuss the possibility of drought.

10 I know, our project people are kicking around  
11 ideas of, you know, what allocations might be. And  
12 yesterday, at a department staff meeting, they were saying  
13 that we, maybe, would be 45 to 60 percent allocations if  
14 the dry weather continued. Again, it's a little bit early  
15 because, you know, we get a big storm come in and then  
16 things will change. You know, as far as reservoirs,  
17 reservoirs are probably a little higher than normal  
18 because of the wet weather we've had. A lot of agencies  
19 who bank groundwater have been doing that. And so there's  
20 a lot of groundwater. So it bears watching.

21 As far as levee evaluations, which are funded by  
22 the AB 142 funding, that program is picking up momentum.  
23 There's activity in North Sac, Marysville, Yuba City,  
24 Natomas, down in the Lathrop area, Stockton area, RD 17.  
25 Right now, there's about a half a dozen program actively

1 working. A lot of folks pulling together existing  
2 information, so that program is moving forward and picking  
3 up momentum.

4 Erosion repair has been going on for the past  
5 year. You know, in the past, we've mentioned that the  
6 original critical erosion sites were structurally complete  
7 in November. There were 24 additional critical sites  
8 identified. The Department of Water Resources has  
9 completed eight from the structural perspective. There's  
10 going to be mitigation work that will extend on, into the  
11 spring and summer.

12 There's two sites the Department is responsible  
13 for, on Cache Creek, that are under design. There's  
14 discussion about setback levees there and trying to  
15 fortify the existing banks. So that design work is going  
16 on. And hopefully, spring/summertime, those will go to  
17 construction.

18 SECRETARY DOHERTY: Keith, may I interrupt you for  
19 a moment.

20 MR. SWANSON: Yep.

21 SECRETARY DOHERTY: You are saying that the  
22 setback levee on Cache Creek, is that the one just to the  
23 west of the bridge of I-5?

24 MR. SWANSON: There were three setbacks that were  
25 constructed. Those are finished. And those were part of

1 the original critical erosion sites.

2 There are two more --

3 SECRETARY DOHERTY: But they are not having  
4 problems with those.

5 MR. SWANSON: No. No. There are two additional  
6 sites that are being evaluated now and will be repaired  
7 spring/summer timeframe. They are going through the  
8 design on those now. They are evaluating setback levees  
9 and have a repair in place. So that work's going on.  
10 They have come to a conclusion on which direction they  
11 will be going. But they are actively working.

12 SECRETARY DOHERTY: Thank you.

13 MR. SWANSON: Okay. The Corps of Engineers is  
14 taking on 14 sites, I think, in December. The timeframe  
15 was for a construction start in January. That's been  
16 pushed back to February. I think there was some  
17 renegotiation with their contractor on material costs.  
18 And then they are looking for additional staff throughout  
19 the -- the Corps, to handle the construction and  
20 administration in that. So that should be getting going  
21 pretty soon, February timeframe. There were 47 PL84-99  
22 sites: 11 are complete; 6 are phase one structural  
23 work -- has been complete; and 25 moved from design into  
24 construction this past month. So that's kind of big  
25 change there.

1           Tisdale Bypass; I don't know if that schedule got  
2   passed out to you.

3           SECRETARY DOHERTY: Thank you.

4           MR. SWANSON: We are working on updating that.  
5   We've been working on talking with Lewis Bair a little bit  
6   this morning. I invited Lewis to come into the office,  
7   probably the week after next, and open it up to any -- any  
8   Board members, if they would like to participate in the  
9   discussion. We talked about the schedule and what's going  
10  on.

11          SECRETARY DOHERTY: What office, where?

12          MR. SWANSON: In our office, with our design  
13  staff.

14          SECRETARY DOHERTY: Oh. All right.

15          MR. SWANSON: So if anybody's interested, let me  
16  know, and we can coordinate in getting, you know, a  
17  meeting set up with Lewis and anybody else that wants to  
18  participate.

19          We submitted our maintenance baseline report, our  
20  wetlands delineation report. Both went to the Corps of  
21  Engineers. We got a lot of activity going on right now.

22          In January we're hoping that -- to have our  
23  initial study negative declaration submitted to the Corps  
24  and out to the State Clearinghouse. We're working on a  
25  biological assessment. We hope to have that done by the

1 end of the month. We are actively working on that.

2 Cultural survey reports are well underway. And we're  
3 finishing up our soil analysis report, which are needed  
4 for our Clean Water Act compliance mitigation.

5 We've got some outstanding issues and concerns:

6 One issue that we are actively working is property  
7 acquisition. We talked about it last time, and I couldn't  
8 go into, you know, a lot of the detail. I still can't go  
9 into a lot of detail. We're working that issue, though.  
10 And you know, we continue to be optimistic that we are  
11 going to be able to acquire property that we can use for  
12 disposal.

13 One of the things that we're -- we're trying to  
14 figure out is how to keep the property in agriculture.  
15 And we're actively working that. We think we're going to  
16 be able to do that. We look to swell a lot of the  
17 material on maybe a 30-acre parcel and have that available  
18 for flood control in the future and then spread the rest  
19 of the material out over the fields and then turn it back  
20 into agricultural production -- use it again for  
21 agricultural production.

22 How we actually do that, we're not quite sure. We  
23 have some technical issues that we're working. Worse  
24 comes to worst, we probably spoil higher on a little bit  
25 bigger area and then not touch the other agricultural

1 property. Or, you know, if we do that, then there would  
2 be mitigation costs associated with that. We're  
3 discussing that with -- I think it's Department of  
4 Conservation. That doesn't appear to be a real big  
5 problem. Something -- it's something we can work out.

6 SECRETARY DOHERTY: So what is your timeline on  
7 this property acquisition? Any ideas?

8 MR. SWANSON: I'm hoping in the next month. What  
9 we have done, though, is decouple it. We are moving  
10 forward with our environmental documents, and so it's not  
11 a critical path item. We need to have property in hand  
12 before we can go to construction. Because we're going to  
13 basically be going with the timely materials contract for  
14 the sediment removal, it's not really critical that we  
15 have it locked up. You know -- I guess the due date is  
16 before construction starts, we have to have it in place.  
17 We're moving forward with our permits as if we're going to  
18 acquire the property.

19 SECRETARY DOHERTY: All right.

20 MR. SWANSON: We've been meeting with the resource  
21 agencies on a regular basis. We've designed the project  
22 to be as -- have as low environmental impact as possible.  
23 We met again in a collaborative forum last week. The  
24 resource agencies are very willing to work with us and  
25 turn our documents around in a timely fashion. And we



1 will continue to work with them.

2 Our schedule that we lay out is -- is an  
3 aggressive schedule. It requires their participation and  
4 collaboration to meet a July construction start. We're  
5 optimistic that they are going to work with us. They say  
6 they are going to work with us. So we feel pretty good  
7 about that. We will continue to be working with them  
8 closely, on a continuous basis, so that there's no  
9 surprises in this process.

10 So overall, I think we're -- we're optimistic.  
11 We're going to be in construction in July, and we're going  
12 to be working this, you know, hard. We're going to be  
13 working with all the various stakeholders to make sure we  
14 don't have any surprises, and get out construction.

15 In the package I provided you, there was a  
16 summary, a division of Flood Management budget. If  
17 there's questions that I can't answer, Rod Mayer indicated  
18 that he's going to be here later today. And Rod is  
19 probably our budget expert. He's been really working on  
20 the budget issues the last month. And so if you have  
21 questions that I can't answer, he will be coming later.  
22 He wanted to talk about the delegation issues, and so he  
23 was going to make himself available at that point in time.

24 One of the things that I provided in the packet  
25 was an overall summary of Flood Management's budget. It's

1 a little bit confusing because it includes all our money:  
2 our carryover money; it includes our reimbursement  
3 authority. And so it's -- like I say, it's a little bit  
4 confusing. But it's basically -- in 2006, 2007,  
5 \$586 million budget. And that's increasing to 698 million  
6 next year.

7           Probably a little -- a little easier to digest is  
8 the increases that we're anticipating in '07 and '08, kind  
9 of just on a high level. You know, we're looking at 461  
10 million and 52 positions in our support budget, and that's  
11 going to be funded through Propositions 1E and 84. Our  
12 capital outlay, funded through the same source, increases  
13 by a hundred million and 23 positions. And then the third  
14 year of our three-year strategic plan, we're looking at  
15 getting another 12 million, with 8 million of that  
16 baseline, and 35 additional positions. Significant  
17 increases.

18           There was a legislative summary. It really didn't  
19 change from the last time. I think as a -- I think as the  
20 Legislature gets going, we'll start seeing some activity  
21 there.

22           MEMBER RIE: Did you want us to wait on questions  
23 on the budget?

24           MR. SWANSON: If you want to go -- go now if you  
25 want.

1           MEMBER RIE: Was there an increase in the  
2 maintenance budget?

3           MR. SWANSON: The maintenance budget increased  
4 quite a bit the last couple of years. I used to have a  
5 budget of about seven and a half million, including  
6 reimbursements for maintenance areas. And I had a staff  
7 of 52 people. This year, it's up over 20 million, I have  
8 a staff of 78 people. And I think I'm going to get  
9 another, about, ten people this coming year.

10           So you know, most of the increase was through  
11 general fund increases, part of our three-year strategic  
12 plan. And it was front-loaded because maintenance was so  
13 critical. And then, we're getting a little bit of money  
14 out of the bond for things like sediment removal. And so  
15 some of the capital outlay expenses that are kind of  
16 extraordinary maintenance will be funded out of the bond.  
17 And that's what we're looking forward to.

18           MEMBER RIE: Okay.

19           MR. SWANSON: The last issue I wanted to talk to  
20 you about was to just give you a little bit of heads-up on  
21 the maintenance area, in Knights Landing. You know, as  
22 you know, there are no local agencies that want to step up  
23 and take over, the little orphan levee in the Knights  
24 Landing area. So we're moving forward with formation of a  
25 maintenance area. We will be sending out a statement of

1 necessary work, which is the first step, and that's really  
2 a estimate of what it's going to cost to have the  
3 Department come in and operate it and maintain it for  
4 those two years.

5 SECRETARY DOHERTY: Is that, that little piece of  
6 levee in Knights Landing, adjacent to the right -- or  
7 white subdivision?

8 MR. SWANSON: That's correct. That's correct.

9 SECRETARY DOHERTY: That's the levee you're  
10 talking about?

11 MR. SWANSON: Yes. Yes.

12 SECRETARY DOHERTY: Nobody wanted to step up and  
13 take it over?

14 MR. SWANSON: No. No. Unfortunately, no.

15 SECRETARY DOHERTY: Has it been brought up to  
16 standard?

17 MR. SWANSON: No. No. The developer has done  
18 some work on it. He's said that in the spring, he might  
19 do some more work.

20 SECRETARY DOHERTY: "Might"?

21 MR. SWANSON: Well, you know -- I don't know. He  
22 has no, you know, legal obligation that I know of, to do  
23 it. I mean, he's told the Board that he's going to bring  
24 it up. But what he actually does, we don't know. And  
25 so --

1           PRESIDENT CARTER: I think it's a condition of his  
2 permit that he bring that levee up to standard before he  
3 turns it over to the State. The State won't accept it  
4 until it's been brought up to standard. If he doesn't do  
5 that, then there ought to be repercussions with regards to  
6 enforcing his permit.

7           SECRETARY DOHERTY: Yeah.

8           PRESIDENT CARTER: I believe that was a condition  
9 of the permit that we issued him.

10          MR. SWANSON: Okay. Well, I can talk more with  
11 Scott Morgan.

12          We are moving forward. We are coming up with an  
13 estimate of what it will cost to bring it up, in the event  
14 that he does not bring it up. If he does bring it up,  
15 then we would not spend that money. And frankly, we would  
16 be -- we would be very happy if it's brought up to  
17 standards, before we take over. But we're moving forward  
18 with the process. We're protecting the State's interest.  
19 We are estimating what it will cost, and we will have that  
20 money available if we need to do work.

21          The statement of necessary work gets sent out.  
22 The -- we're going to look at the Ridge Cut Drainage  
23 district and the County. Either of them, if they have  
24 any -- any protest as far as the amount of our estimate,  
25 they have a 45-day period protest, and then there will be

1 a hearing within 30 days, under the auspice of the Board.  
2 And so we would -- we would take public comment at that  
3 point in time and, you know, determine whether there needs  
4 to be any changes. And then we would move forward with a  
5 boundary hearing; there would be a public hearing on that,  
6 again under the auspice of the Board. Once the boundary  
7 hearing occurs, the Department would -- would come up with  
8 their final determination. And then the Board would --  
9 would adopt the budget and the boundary or the maintenance  
10 area of the work. And so that's moving forward. You will  
11 see the statement of necessary work, probably next week,  
12 week after. And then we'll go through the comment period,  
13 and we'll move forward with that. We're going to be  
14 pushing to take over maintenance July 1.

15 At this point, I will take any questions.

16 PRESIDENT CARTER: Are there any questions for  
17 Mr. Swanson?

18 One question I have is: In the December or  
19 November meeting, I don't recall exactly, we had discussed  
20 with Mr. Mayer, before he went on temporary assignment,  
21 getting some information regarding the bypasses and  
22 property that -- that the Reclamation Board through the  
23 San Joaquin -- Sacramento/San Joaquin Drainage District  
24 has easements or owns the fee title with regard to the  
25 grazing permits and maintenance of those levees, or those

1 bypass -- bypass structures and floodways.

2 My understanding was that the Department was going  
3 to include that as part of their report early this year.  
4 It isn't here in January. So I expect that to be in  
5 February.

6 MR. SWANSON: Okay. And I could maybe give you a  
7 little bit more information on that. I did talk with Rose  
8 Marie a little bit about that. We currently have a  
9 grazing permit on the Colusa bypass. Fish and Game has  
10 been grazing the Feather River up on the Lake of the  
11 Woods, O'Conner Lakes, down to the confluence with the  
12 Sutter Bypass and the Feather. That area has been grazed.  
13 We've talked about raising Fremont Weir in the past.  
14 We've held on because of the sediment removal contract  
15 right now.

16 And now we need to kind of reestablish the grasses  
17 out there, and then we would look at that as a tool to  
18 maintain that area.

19 We're limited on what we can graze, because we  
20 don't own fee title to very much property in the bypass.  
21 Most of the property is owned by private individuals. We  
22 have the ability to go and do flood maintenance out there.  
23 But we don't really have the ability to enter into a  
24 grazing permit on somebody else's property. And so the  
25 opportunities for grazing are going to be limited to the

1 areas where we have control of them.

2 And that's really -- the Colusa Bypass, the  
3 Tisdale Bypass, the Feather River, where the Department of  
4 Fish and Game has the property on it, and then the Fremont  
5 Weir, we have property there, that's managed by Fish and  
6 Game. And in our discussions, in the past, they have been  
7 willing to enter into grazing contracts there. And so  
8 then I guess Sacramento Bypass, we could do something  
9 there also.

10 And so that's going to be about the extent of  
11 where we're going to be able to enter into grazing  
12 contracts, because that's where we have the fee title  
13 property.

14 PRESIDENT CARTER: Okay.

15 What I would request is, if Mr. Fong, or whoever  
16 is appropriate within the Department, could prepare that  
17 list, that you just gave us, make sure that's complete;  
18 and then what I would like to see is, what are our options  
19 with regard to that? I think that some of these grazing  
20 permits are a win-win situation, if the conditions are  
21 right. And that's kind of what we are looking to find  
22 out.

23 MR. SWANSON: Okay.

24 PRESIDENT CARTER: If there's nothing else for  
25 Mr. Swanson, then we will move on.



1 MR. SWANSON: Thank you.

2 PRESIDENT CARTER: Thank you very much.

3 We are on to Item 7, which is State of Emergency  
4 Board Actions.

5 Mr. Punia?

6 GENERAL MANAGER PUNIA: Jay Punia, general  
7 manager, Reclamation Board.

8 There were no action needed from the Reclamation  
9 Board in response to the declaration of state of  
10 emergency. And there were obviously no actions taken by  
11 the Board staff.

12 Thank you.

13 PRESIDENT CARTER: Okay. Item 8, Three Rivers  
14 Levee Improvement Authority Monthly Report.

15 Mr. Brunner?

16 MR. BRUNNER: Good morning, President Carter,  
17 members of the Board.

18 (Thereupon an overhead presentation was  
19 presented as follows.)

20 MR. BRUNNER: I would like to start with the  
21 supplemental report that was handed out to you and point  
22 out a couple items on it.

23 --oOo--

24 MR. BRUNNER: The first item I would like to  
25 highlight is that we do have a new location for the TRLIA

1 operation. Last week, we moved from the center of Yuba  
2 County to the One Stop Center --

3 SECRETARY DOHERTY: To the what?

4 MR. BRUNNER: One Stop. It's on Yuba Street in  
5 Marysville. So we're located on the second floor of that  
6 facility. And the address is shown on our supplemental  
7 report. The phone number stayed the same, if you needed  
8 to get in touch with us.

9 The next item I would like to report on, which  
10 really summarizes, I think, where we are on our Phases 2,  
11 3, and portions of 4, which is the Yuba River work on the  
12 Phase 4, is the status of where we are on certification,  
13 which is also given in the supplemental report. And those  
14 particular reaches of the levees, that we're working on,  
15 we have submitted the application for certifications to  
16 the Corps. The Corps is really working hard to get that  
17 certification for us by the end of the month.

18 Dialogues, even as recent as yesterday, that we  
19 went with them to work through, there are a couple of  
20 items that we have to still work there. But I think we  
21 are making really great progress. And our goal is still  
22 to have at least -- other goal is to have it totally done  
23 and certified during that time.

24 The Corps hopefully can support that. And I know  
25 John is here later. John Hess may comment on that during

1 his presentation.

2 So with that, what I would like to turn to is,  
3 really, where we are on Feather, Phase 4, on that  
4 particular project.

5 For us, on Phase 4, on the Feather -- and I have  
6 the map here, as pointed out -- is segments 1 and 3, here.  
7 We are proceeding with the design still. We expect that  
8 90 percent design to come out today, for review, so the  
9 State should be getting that to review for that particular  
10 design. And then our goal there would be to go to  
11 construct that, later on in the construction season this  
12 summer.

13 The big issue for us is really segment 2, which is  
14 right here, about a 6-mile reach of the Feather River,  
15 between -- the decision is, do we do the setback or the  
16 strength-in-place option.

17 We have entered into long discussions with the  
18 State and other folks about how to proceed. We did finish  
19 our EIR analysis, our alternative analysis on those  
20 documents and working with the state on those.

21 Proposition 1E gives us the opportunity to proceed  
22 down that way, with the State, to get State funding to  
23 support that effort. We believe that this opportunity and  
24 the discussions that we have, it would be an excellent  
25 opportunity for us to reengage with the State Rec Board

1 Subcommittee that was formed before, on our project, meet  
2 with you, and start engaging with you in the weeks to  
3 come: our plans and future, what we are going to be doing  
4 with the setback, and how we're going to integrate that  
5 into our current plans and procedures that we have.

6 Our goal is still to achieve all this within the  
7 2008 time period, but we want you to be able to see how we  
8 are going to do that, how that would be integrated. The  
9 setback is an intensive effort. And we'll need everyone's  
10 help to make that happen.

11 So I would make that request, that in the weeks  
12 coming, we work with your schedules and sit down and start  
13 having that discussion.

14 The other thing that I would like to report for  
15 you is that on our building permit --

16 --o0o--

17 MR. BRUNNER: This is an item that we are  
18 continually asked to give status on. We are now past  
19 2006, into 2007. And the number over here, 1,383  
20 represents the total amount of permits that have been  
21 issued in the last two years.

22 So under the first arrangement that we had, we had  
23 the 800 in 2005, 700 that we did issue in 2006. And we  
24 approached the Board back in April and had that waived, or  
25 allowed to go for unlimited building permits based upon

1 our projects and schedules that we have been able to  
2 achieve and maintain.

3 As you see, with the economy, as such in the  
4 building and the growth that's going on, is that we really  
5 have flattened out. We never achieved yet, the 1500  
6 number on building permits.

7 So far, this year, our records would indicate that  
8 no building permits have been pulled for this area, in  
9 2007, at this time.

10 The one last thing that I would like to add is, I  
11 mentioned, on the FEMA certification, that we're working  
12 with the Corps on and trying to get that response from  
13 them, is that certification is for the 100-year level.  
14 Our goal for our entire project is 200-year. But if we --  
15 our goal is 200 a year. The certification would be  
16 100-year. And there are certain things on the Yuba that  
17 we cannot get there yet. I won't go through that long  
18 discussion yet, but raising the levee in that, we'll have  
19 that discussion in the March timeframe, when we come back  
20 and we discuss whether or not we should raise it or not.

21 With that, I will end and ask for questions.

22 PRESIDENT CARTER: Thank you.

23 Any questions for Mr. Brunner?

24 Butch?

25 VICE PRESIDENT HODGKINS: Mr. Brunner, if we

1 reconvene the subcommittee, what would be the timing for,  
2 maybe, the first meeting?

3 MR. BRUNNER: I think in the next few weeks,  
4 hopefully we will have a meeting in the early-February  
5 timeframe, where the TRLIA Board will accept and make an  
6 announcement for which alternative we will select. So as  
7 we go to do that, I think the next few weeks,  
8 early-February timeframe would be great. We'll work with  
9 your schedules to do that.

10 VICE PRESIDENT HODGKINS: Okay. But I would --  
11 those meetings have to be publicly noticed, under  
12 Bagley-Keene, which is, I think, ten days; is that  
13 correct? So take that into consideration. That's ten  
14 working days, I believe.

15 MR. BRUNNER: Good comments there.

16 MEMBER BURROUGHS: And then the staff will forward  
17 it to the Board, the meeting notices. Thank you.

18 I have a couple questions, just with housing  
19 development here on your -- on your graph that you show.

20 What -- while you've never peaked, and you're kind  
21 of flat right now, what is your projection, right now, for  
22 the future, on the housing market?

23 MR. BRUNNER: Well, so far, we don't see a lot of  
24 change for that. And not being in the development  
25 business, I don't have a large insight on that. But

1 talking with the landowners, the developers that are  
2 involved with us, the economy is pretty self-evident.

3 Scott, did you have a comment?

4 MR. SHAPIRO: Good morning. Scott Shapiro with  
5 the Special Counsel, Three Rivers. I was just going to  
6 share that I have talked with one of the developer  
7 representatives a week or two ago. And they said at this  
8 point, they have less than five sales a week, in the  
9 entire area. So that's not a projection, obviously, in  
10 the future, but that's what's going on right now.

11 They still have more building permits pulled than  
12 they have houses sold. So this would eat up some of that  
13 surplus. And then if you just project forward, at five  
14 per week, you can see that this year would be in the  
15 500-range, for example.

16 MEMBER BURROUGHS: Is there a problem with  
17 foreclosures in the area?

18 MR. SHAPIRO: I can't speak to that.

19 MR. BRUNNER: I do not know either.

20 MEMBER BURROUGHS: My question would be that if we  
21 were -- if this project was based on housing development,  
22 that then would be bond issues that would generate income  
23 to complete the project. If there are foreclosures and  
24 the market is looking like it's not holding, what is the  
25 security to ensure that the money that was supposed to be

1 generated by the bonds would, in fact, be there to  
2 complete the project?

3 MR. BRUNNER: The project is based upon funding  
4 from the developers. And the project would just be put on  
5 hold, as far as where we are. We are moving with the  
6 setback to really work with the State to get the financial  
7 support, along with the development community, to utilize  
8 Prop 1E to finish the project and do the setback.

9 MEMBER BURROUGHS: Thank you.

10 PRESIDENT CARTER: The setback you're speaking of  
11 is the Feather River Setback.

12 MR. SWANSON: The Feather River Setback, yes.

13 MR. SHAPIRO: I just want to -- I was corrected by  
14 one of the landowner representatives; it was five per  
15 month, not five per week.

16 MEMBER BURROUGHS: Okay. Thank you.

17 PRESIDENT CARTER: Any other questions for  
18 Mr. Brunner?

19 All right. Thank you very much.

20 We do have a couple members of the public that  
21 wish to speak on this particular item.

22 Mr. Archer?

23 MR. ARCHER: Yes, I would like to defer to  
24 Dr. Smith. I will speak after him, please, if that's all  
25 right with you.



1           PRESIDENT CARTER: That's fine.

2           Mr. Smith? Dr. Smith?

3           I would appreciate, again, kind of observing the  
4 five-minute time limit if we could, please.

5           DR. SMITH: I'll do my very best to keep it in  
6 that time.

7           PRESIDENT CARTER: Thank you.

8           DR. SMITH: Good morning, esteemed Chairman  
9 Carter, Members of the Rec Board. I am Dr. Dale Smith.  
10 I'm speaking on behalf of CCRG. We've sent two large  
11 documents to the Rec Board in the last couple of the  
12 weeks: The first was on 12/28/06, with an executive  
13 summary; the second one, a copy of our letter to FEMA,  
14 received at the Rec Board at 9:02 a.m., Tuesday the 16th.  
15 And I ask that that particular document be part of the  
16 administrative record in this case.

17           I'm not going to comment directly on my letter of  
18 12/28/06; you've had opportunity to review it. But my  
19 presentation does encompass some of those salient points.  
20 I mentioned before, my extensive background in the news  
21 business and investigative reporting. And for the past  
22 two weeks, I've inspected and photographed that flood area  
23 in the Yuba River.

24           My comments are along what has been reported by  
25 TRLIA, as completed, with the perimeters of the several

1 Rec Board permits. I'm not an attorney, but I can read  
2 the law. And I would like to read for the benefit of the  
3 others here. I know you know it. But two items about the  
4 Rec Board's responsibility:

5 A: "The purpose of these regulations is to carry  
6 out the Board's duties pursuant to Water Code Sections  
7 8534, 8608, and 8710 to 8723. Under these statutes, the  
8 Board is required to enforce within its jurisdiction, on  
9 behalf of the State of California, appropriate standards  
10 for the construction, maintenance, and protection of  
11 adopted flood control plans that will best protect the  
12 public from floods";

13 And Point B: "The area of the Board's  
14 jurisdiction includes the entire Central Valley, including  
15 all tributaries and distributaries of the Sacramento/San  
16 Joaquin Rivers, and Tulare and Buena Vista Basin," closed  
17 quotes.

18 Now, our December letter did not present the  
19 photographic evidence that I have today. The first  
20 document in your packet is the TRLIA map of the area and  
21 the levees involved.

22 The next are Exhibits 2 and 3. These are photos  
23 of the land side of the levee, at point 2079 mile levee  
24 marker, showing the questionable cut in rain runoff  
25 gullies, from just one small rainstorm.

1           Now, any repair or maintenance that involves  
2   cutting of the levee, wholly or in part, must be approved  
3   by the Board prior to the announcement -- or the  
4   commencement of the work. I just wonder if the Rec Board  
5   did approve that cutting into the levee, as shown in  
6   photos 2 and 3.

7           Now last Monday, TRLIA heavy equipment was on that  
8   sand berm, pushing sand into that cut. Mr. Archer took  
9   photos, so there are before and after views. Monday's  
10   incursion was not legal, because levee construction is, by  
11   law, shut down until April 15th, 2007.

12           These photos and our extensive narrative in the  
13   FEMA letter, which also went to the attorney general, the  
14   FBI, and the Army Corps, show that the levee had 0.79, had  
15   no work done on the water side, only the dubious berm on  
16   the land side. And why not? Simple. The large number of  
17   boulders in that levee, in picture 6, shows the top of one  
18   of those boulders.

19           Photos 7 and 8 show the water side and the fact  
20   that this levee is not safe. But TRLIA and the Army Corps  
21   have said publicly that it is.

22           Now, about the alteration of a levee, take note of  
23   picture 9 and carefully read the caption that's there.

24           Pictures 10 and 11 show the size of the boulders  
25   that are still lying next to the levee.

1           Now, USACE Colonel Light wrote, in his 12/4/06  
2   letter to Rex Archer, quote, there is no slurry wall in  
3   the Linda levee at levee mile 0.79, as it would be  
4   impossible to dig that trench through the giant boulders,  
5   closed quotes.

6           Bingo. With no slurry wall, that levee is not  
7   safe. And it's very simple. There are hundreds of water  
8   tunnels that let that water flow through. It's more than  
9   seepage.

10          In our FEMA letter, Exhibit 15, Kleinfelder  
11   Engineering told Yuba County, in 2004, quote, that levee  
12   stands a high chance of another 1986 event if not  
13   addressed, closed quotes.

14          I have only five more pictures, and then I will be  
15   finished.

16          The Rec Board permits called for significant work  
17   to be in reaches A and B, and there may be some question  
18   about A, but the photos of 19, 20, and especially 21,  
19   taken Thursday last week, shows that none of the work that  
20   was in the permits was done.

21          When confronted with this issue, by Rex Archer at  
22   the Yuba Board of Supervisors meeting, Tuesday the 16th,  
23   TRLIA engineer Rick Rinehart told the Board that the Army  
24   Corps told MBK that this work was not necessary.

25          Now, the law is quite clear. Only authority for

1 such an action is the Rec Board general manager. And I  
2 just wondered, did the Rec Board GM authorize MBK to  
3 change the permits to avoid doing this work? If so, why  
4 wasn't the public involved?

5 Now, I also find it a little bit difficult to  
6 believe USACE and TRLIA statements, that this levee is  
7 totally safe, when I read Colonel Light's 12/4/06  
8 statement about the sand berm: Quote, "The seepage berm  
9 performed as desired in the recent high water event."

10 The fact is, there's been no high water event to  
11 test this berm. It was only completed in 2006.  
12 January 8, 2007, Colonel Light wrote, quote, "In all  
13 respects, the Corps is satisfied with the design and  
14 performance of the repairs made at the Linda break."

15 The CCRG is not satisfied. The Kleinfelder  
16 position is our position: Without a slurry wall, that  
17 levee is not safe, and this is extremely significant; not  
18 insignificant because thousands of lives may be in danger.

19 The two Colonel Light letters with those  
20 questionable statements highlighted are in your packet.  
21 The purpose of a public hearing like this is to get to the  
22 bottom of the issue. One old saying really fits here: No  
23 matter how flat the pancake, it always has two sides.

24 Esteemed Reclamation Board members, you have heard  
25 the citizen's side this morning. We leave it in your

1 capable hands. But we also recommend that you ask your  
2 staff for the full CCRG report on -- to FEMA. Read it  
3 carefully. And also look carefully at the photo in Page  
4 23, lest you forget the awesomeness of a flood.

5 That and all of our materials are going to be up  
6 in our new and improved Web site. Have a look. The  
7 address is very simple: ccrg.cc.

8 Thank you. Any questions?

9 PRESIDENT CARTER: Questions for Dr. Smith?

10 MEMBER RIE: Yes. Who does Kleinfelder work for?

11 DR. SMITH: Kleinfelder was commissioned by  
12 Yuba -- by Yuba County to do that report in 2004.

13 MEMBER RIE: Was it a peer review?

14 DR. SMITH: Was it a what?

15 MEMBER RIE: Was it a peer review of somebody  
16 else's report?

17 DR. SMITH: That I'm unsure of. I don't know the  
18 answer to that. I just -- I have the report. I have  
19 attached some pages of it in there for you to look at.  
20 But I did -- I don't know, off the top of my head, exactly  
21 what the report was. I will have to research that and get  
22 back to you.

23 MEMBER RIE: Okay.

24 PRESIDENT CARTER: Any other questions for  
25 Dr. Smith?

1           Thank you very much.

2           DR. SMITH:   Thank you.

3           PRESIDENT CARTER:   Mr. Archer?

4           MR. ARCHER:   Thank you.   I am Rex Archer.   This is  
5   the permit that you have two of in your possession  
6   somewhere, because the early Kleinfelder report -- I'm  
7   sorry.   It says here that two were given to your  
8   department, two to the Corps of Engineers, two to Yuba  
9   County, two to whoever, but you should have two of these  
10  somewhere.

11           Mr. President, Honorable Board Members, and staff,  
12   I thank you for the privilege of speaking for you today.  
13   I am Rex Archer from Linda and RD 784.   Hopefully you have  
14   my packet and have read it.

15           I will be brief and just bring an update of  
16   findings, since I appeared here last month, and will  
17   answer questions shortly.

18           Under the Freedom of Information Law, I was able  
19   to obtain a couple -- a copy of TRLIA's Permit Number  
20   18095, George Mary, GM, and a upon reading it, discovered  
21   the permit was for a MUCH larger reach of the Linda levee  
22   than TRLIA's brochures had shown and communication from  
23   the media had reported.

24           I, in fact, was shocked to find, there were major  
25   upgrades listed, from the Union Pacific Railroad to

1 Highway 70, that had not been advertised, spoke of, or  
2 acknowledged, in any way, they existed. As a side line, a  
3 mitigation pond is now under construction. It's been  
4 excavated next to the sand berm that they speak of, that  
5 was put in the land side, near Shad Road.

6 That is near Highway 70, which is the west end of  
7 this reach of levee, that goes to Simpson Lane.

8 So there's construction underway right now. And  
9 I -- I know there's no permit for that. So that's just  
10 part of what I am getting at here. TRLIA uses their own  
11 knowledge, their own -- "I'm going to do it"; "It will be  
12 my way or the highway." They don't look to you for  
13 permits. They do it themselves, and if they get permits,  
14 they say, "Well, I don't want to do these. They are  
15 unnecessary." They don't tell you that they are going to  
16 do it. They do it.

17 Now, Honored Members, it was even more disturbing  
18 to find, upon my initial investigation, and later, about  
19 the joint inspection and documentation of the upgrades,  
20 having no work done on them, by Dr. Dale Smith, HHD; Tom  
21 Foley of CCRG; and myself. It shocked them also, in my  
22 opinion.

23 This levee, it must be remembered, is the levee  
24 that catches the Yuba River at full force, full force,  
25 head on during extreme high water events, such as 1986 and



1 1997. And anything at all that helps it withstand that  
2 onslaught is beneficial to the 36 to 40 thousand citizens  
3 who depend on it for safety.

4 I've depended on it for 47 years.

5 And of course, the deliberate failure to upgrade  
6 major weak sites that were listed as "essential" by TRLIA  
7 management, under Permit 18095, George Mary, to your  
8 Board, to remove Linda and Olivehurst out of the deep  
9 flood area. Now, they always state "Linda and  
10 Olivehurst." Let me bring that up to date on this. When  
11 that levee fails, it doesn't just affect Linda and  
12 Olivehurst. It affects Edgewater, a new project that they  
13 are doing; it affects Plumas Lake, extremely. It's like  
14 it breaks here, it goes down there, and raises 17, 18 feet  
15 high for weeks, not days.

16 They recently installed two large giant pumps down  
17 there to try to pump that out. The last time it broke,  
18 somebody got the bright ideas to cut the levee, to let  
19 that water run out. But the water ran in again. So they  
20 had to fight that thing. There's not a lot of brains  
21 being used here, that I can see.

22 All right. Now, they are reporting to FEMA that  
23 the Linda levee was completed and requesting a  
24 certification while knowing major upgrades to remove Linda  
25 and Olivehurst out of the flood zone had not -- as stated

1 by County Administrator Robert Bendorf, in a letter to  
2 FEMA, this past week -- has been done. County  
3 Administrator Robert Bendorf is not the first Yuba County  
4 administrator to mail false statements to the federal  
5 government. County administrator Kent McClain, Bendorf's  
6 predecessor, in April of 2006, mailed a letter to the  
7 United States Army Corps of Engineers, District Engineer  
8 Colonel Ronald N. Light, stating, "The Linda levee is  
9 completed by a sand berm and a slurry wall from Highway 70  
10 to the Union Pacific Railroad."

11 I have seven different written things, over the  
12 past six, eight months, from county officials that says  
13 the Linda levee is complete. If they didn't finish  
14 upgrades, they didn't even tell you about them. They  
15 didn't tell me about them. They didn't tell anybody. How  
16 can the Linda levee be complete? We have to start using  
17 our heads here.

18 All right. The common denominator in these two  
19 mailed letters is TRLIA, Rick Rinehart, and Dan Logue;  
20 those three are connected in everything that's been  
21 written false about the Linda levee.

22 Richard Webb is also -- did I mention Richard Webb?  
23 Rick Rinehart, TRLIA, Dan Logue, and Richard Webb. They  
24 were in control during both false letter mailings and are  
25 in control today.

1           The experiment of developer funding has resulted  
2   in false statements, failed to construct major upgrades,  
3   levees upgraded to benefit housing developments that  
4   require 200-year levees, citizens in established  
5   residential areas with no levee upgrades under permit  
6   18095GM that benefits them.

7           As I stated in my packet, last month -- just got a  
8   short one left here. For the safety of upwards of 40,000  
9   people, Mr. President, I request, in light of foregoing  
10   statements and records, that your Board recall any and all  
11   permits active in RD 784, given to TRLIA, Yuba, or Yuba  
12   County. In the future, only permits state and federal  
13   government control of upgrades of state owned RD 784  
14   levees, which will remove partial special interest funding  
15   and control, require levee upgrades before housing  
16   permits, and return control to our state and federal  
17   agencies for the obvious safety of RD 784 citizens.

18           You have the authority to bring about this needed  
19   correction, Mr. President. And I believe it is your duty  
20   to do so.

21           With that, I will be glad to answer any questions.

22           Thank you.

23           PRESIDENT CARTER: Thank you.

24           Are there any questions for Mr. Archer?

25           MEMBER RIE: Yes. What's the date of the

1 Kleinfelder report?

2 MR. ARCHER: The date of it was June 11, 2004.

3 And it was sent -- June 11, 2004. It was sent to  
4 Mr. Randy Margo, Three Rivers Levee Improvement Authority,  
5 and problem -- and listed under "problem identification  
6 report, Yuba River, left bank levee, Highway 70 to  
7 Southern Pacific Railroad" -- which that would be "Union  
8 Pacific Railroad." Approximately levee mile marker 0.72  
9 to 0.91. Now, in between there is 0.79, the exact spot  
10 where the levee broke in 1996, has the boulders in it, and  
11 when you dump boulders in there, they don't land perfectly  
12 straight. They land all kinds of stuff, and that leaves a  
13 chute of water going through there.

14 I personally have seen that water. In 1996, under  
15 that high water year, and 1997, under the second high  
16 water year in a row, where it broke. I saw it pooling out  
17 there, in what we call a scour trench, which no one ever  
18 mentions except Rex Archer.

19 Does anyone know what a scour trench is? Do you  
20 want to know what scour trench? I will tell you what a  
21 scour trench is.

22 PRESIDENT CARTER: Yes, please do.

23 MR. ARCHER: Say it breaks right here. The water  
24 from back there, in high pressure, comes flowing through  
25 this break and digs a hole: 18 feet, 20 feet deep,

1    whatever it happens to be; depends on the pressure,  
2    pushing that water through. And that goes for 200 feet,  
3    200 yards. And we pull up the dump trucks and dump those  
4    giant boulders in there. They go through this thing, go  
5    out there, and fill up that scour hole. And back up on  
6    herself and come here, and then they fill up the breeched  
7    levee. And then you fill it in with stuff and you go  
8    about your business, and 20 years later, we're still  
9    looking at it. Has no work, period, done to remove those  
10   boulders. They have spent hundreds of millions of  
11   dollars.

12            Now, if they would have fixed TRLIA, if they would  
13   have fixed that Linda levee, that affects everybody south  
14   of it -- Plumas Lake, all of them -- if they would have  
15   fixed it, they could have let the rest of it go, and we  
16   would have been a lot safer than we are.

17            But it went down in Plumas Lake area and put  
18   levees down there, fixed them up, because it looked good  
19   for development.

20            But I hope you know where I'm at here with this,  
21   now. So these levees down here look good for development,  
22   but now come back up here.

23            What about this levee?

24            SECRETARY DOHERTY: Mr. Archer, you said -- is  
25   there a holding pond being built right in that area?

1           MR. ARCHER: Yes, ma'am. Now, let me tell you  
2 about a story about that.

3           SECRETARY DOHERTY: On the land side?

4           MR. ARCHER: On the land side, ma'am.

5           Now, let me tell you story about that. In 1996,  
6 they dug one of those holes. I went up on the levee, as  
7 President of 784, and I stopped construction. I says,  
8 "You cannot dig near my levee."

9           And they said, "Well, Rex, if we close it off, you  
10 know how expensive that will be."

11           I said, "Yeah, but if one person dies, how  
12 expensive will it be?"

13           So one thing lead to another. They would not  
14 listen to me. I resigned as President of 784, because  
15 it's hard for me to fight that kind of reasoning. The  
16 levee broke right where I said it was going to break and  
17 killed -- drowned three people, including my manager's  
18 wife. Now, this is the same thing, ma'am. It's right  
19 here within 90 feet of the levee base.

20           SECRETARY DOHERTY: Now, there's a maintenance  
21 yard right there, to the south.

22           MR. ARCHER: It's Caltrans.

23           SECRETARY DOHERTY: So is it between Caltrans and  
24 the levee?

25           MR. ARCHER: It is. It certainly is.

1           And it just started last week or so. I drove down  
2   there. I went over to the foreman. I says, "Do you have  
3   a permit for this."

4           "Well, yeah, it's covered under that levee right  
5   there."

6           I says, "No, it isn't. Do you have a permit?"  
7           It was HDR Construction -- or Engineering.

8           And I says, "You can't have a permit. I have the  
9   permit for that levee, and it says nothing about you  
10   digging a hole here." And I says, "If you dig this hole  
11   and the water comes under the levee, like it did in '97,  
12   and blows the levee out, because you have taken the ground  
13   down near the underground river now. The closer you get  
14   to it, the more it can pop up, out of there."

15           Now it has to come like this so it goes on. Now  
16   they have given it an escape route the same way they did  
17   in 1996. They continued work. There is no permit. I  
18   checked, once again, Three Rivers. A development funded  
19   organization opened that and are doing it theirselves, with  
20   no permit.

21           I don't know, unless you have issued a permit  
22   lately. But I do know, last Tuesday, when I went to their  
23   meeting, and I brought all this out, all of a sudden, they  
24   said, "Oh, well, we decided that is not necessary. And  
25   we're going to do that sand berm down there, this week."

1           And I says, "Could I hear that again,  
2   Mr. Rinehart?"

3           "This week."

4           They don't have a permit to do it this week. Now,  
5   if what you have done is you've put a -- a group of people  
6   out there and said "fix those levees," and they give you  
7   false statements that says "we fixed those levees," and  
8   then I catch them -- one man has unraveled all this stuff.  
9   And what if I had ten investigators? What else would I  
10   have uncovered?

11           PRESIDENT CARTER: Any more questions for  
12   Mr. Archer?

13           MR. ARCHER: And all this before I leave, I  
14   request, sir, that you remove all permits from Three  
15   Rivers, Yuba County, and Yuba County TRLIA, whatever their  
16   names are --

17           PRESIDENT CARTER: Thank you.

18           MR. ARCHER: -- for the safety of Linda,  
19   Olivehurst, and Plumas Lake.

20           PRESIDENT CARTER: Thank you. Mr. Foley?

21           MR. BRUNNER: Is it appropriate for Three Rivers  
22   to respond?

23           PRESIDENT CARTER: No, not right now. You will be  
24   given your chance.

25           MR. FOLEY: Good morning, Chairmen and the Board.



1 Thank you for allowing me to speak.

2 This pertains to Three Rivers. In the Central  
3 Valley, when the floodwaters come, we trust and rely on  
4 our flood control system. Who do we trust and rely on to  
5 protect the system which protects us? We don't have much  
6 choice. We must rely on and trust, first and foremost,  
7 the Rec Board.

8 The Rec Board has been entrusted by the people,  
9 through the Legislature, to protect and strengthen our  
10 Central Valley flood control system. The Rec Board is  
11 also enabled by the Legislature. It has the necessary  
12 authority to get the job done. That is very important.

13 If the Board has the responsibility and the power  
14 to protect our system, why look elsewhere?

15 The bond money is at hand. The Rec Board, through  
16 its actions and nonactions, will be the principal  
17 designers of our future Central Valley flood control  
18 system.

19 The future integrity of the system will rely on  
20 the present integrity of the Board. If the Board can  
21 withstand political storms this year, the system can  
22 withstand storms that come.

23 If the Board fails its responsibility, the system  
24 fails after. If the Board is strong now, the system will  
25 be strong soon.

1           We will have to live with how you vote. Why not,  
2   as a member of the public, ask that you feel responsible  
3   for which you do or not do. I feel responsible. When  
4   I've gotten questions why I do what I do, I looked into  
5   it, and after you look into it, how can you not feel  
6   responsible?

7           We need a Board that feels responsible and is  
8   responsible. If not, we need to raise hell with the  
9   governor for leaving our safety in our hands.

10          Soldiers steel themselves and risk their lives on  
11   deep feelings that it is right to do what they do.

12          Employees within government agencies often risk  
13   their livelihoods to try to do what is right. We ask the  
14   Board the fight for public safety and risk the  
15   consequences.

16          There are private and short -- short-sighted  
17   interests that will have to be fought. The public needs  
18   an agency that will fight. That should be the Rec Board.

19          The other agencies need to cover. They need  
20   somebody to take the heat. Tremendous political  
21   development and pressure is always when these things come  
22   up. Why shouldn't the public go to one agency, to get it  
23   done, to take the heat? So they can -- so the other  
24   agency -- the Board can take the heat so they can carry  
25   out their responsibility.

1           There is a big question mark hanging over the Yuba  
2 River repairs. The Army Corps must have at hand hydraulic  
3 engineers to tell Colonel Light that the Yuba River  
4 repairs could not have been tested by a high water event.

5           Are we mistaken? Are we spreading this  
6 information when we claim that no water event has occurred  
7 to test the repairs? We say, the Corps is misinforming  
8 members of the public. It is a short distance from  
9 misinformation to cover up. I cannot emphasize enough, I  
10 have experience, I have looked at it, I spent three years  
11 on it. I've been to many, many, many meetings. I cannot  
12 emphasize enough how much the Rec Board can accomplish  
13 with its powers. The power of the Rec Board -- the power  
14 of the Rec Board is a public resource to be expended  
15 wisely.

16           When the Rec Board is weak, our flood control  
17 system is designed by private interests by default.  
18 Everyone -- the Corps -- everyone involved -- the Corps,  
19 DWR, and the local agencies -- must come before the Rec  
20 Board. Doesn't that say to a person that the Rec Board  
21 has the principal role? You are instructed by the public,  
22 through the Legislature, to delegate to the DWR. You are  
23 not to defer to DWR. You are to delegate and get what  
24 needs to be done. That is the power to get things done.

25           The DWR has other responsibilities apart from

1 flood control. The Corps has projects all over the  
2 country. The Corps has only one task before it. If the  
3 Board is not proactive and aggressive, the public will  
4 have a travesty of a flood control system and billions  
5 wasted. A lesson learned from Katrina was that New  
6 Orleans lacked an agency, which would have been their Rec  
7 Board. That's very important, that there should have been  
8 a board there, to watch all over all the little tiny  
9 boards.

10 If California has a Katrina, it won't be because  
11 we lack a Rec Board. It will be because we lacked a Rec  
12 Board with the competence and sincerity and willingness to  
13 ensure the system's integrity.

14 We think the Rec Board should use their powers,  
15 look at the violations of the permit, use the violations  
16 of the permit, the Three Rivers permit, raise the issue of  
17 a moratorium, use the moratorium, to extract a bondable  
18 amount of money, a real amount of money, to developers,  
19 then proceed to take over from TRLIA, take over the  
20 system.

21 The Rec Board -- they have designed a system  
22 without -- they are trying -- they did something in Lake  
23 County, they did something up in Hamilton City. They can  
24 do it.

25 No monies can be promised from home construction,

1 even without a moratorium. So the moratorium, that was  
2 always the big issue, that no moratorium can be imposed  
3 because funding will fall apart. That is not an issue.

4 Scott Shapiro promised, up and down -- promised up  
5 and down -- promised you, up and down, that a 200-year  
6 lift permit, that area, that we are referring to today,  
7 will be 200-year protection. It's in your transcript that  
8 is Mr. Smith sent you, that he quoted. They are  
9 proceeding now. They -- I was also at the board of  
10 supervisors meeting on Tuesday. They told the board of  
11 supervisors that that is not on the table now. A 100-year  
12 protection is on the table now, to satisfy the Corps, in  
13 other words, to satisfy FEMA, so FEMA -- that's the  
14 intent.

15 I hope Scott Shapiro promised up and down 200-year  
16 protection to lift the restrictions.

17 I suppose the Board entrusted him to do his work.  
18 I hope, as a member of the public, we have more than empty  
19 promises to fund levee repairs.

20 The Board might consider, in this situation, the  
21 old powers of levee assessments. The Rec Board has  
22 tremendous powers. It has a problem with serious  
23 flooding, huge problems, and they are given tremendous  
24 powers to get something done. That is a unique power, the  
25 levee assessments.

1           PRESIDENT CARTER: Mr. Foley, could you --

2           MR. FOLEY: Thank you very much.

3           I got to squeeze in there too, that -- regarding  
4 this, about this issue that there's a team from Berkeley  
5 that went to study New Orleans. You guys might call that  
6 an independent levee investigation, to look at some of  
7 that up there.

8           PRESIDENT CARTER: Any questions for Mr. Foley?

9           Thank you very much.

10          MR. FOLEY: Thank you.

11          PRESIDENT CARTER: At this time, Mr. Hess from the  
12 Corps of Engineers?

13          (Thereupon an overhead presentation was  
14 presented as follows.)

15          MR. HESS: President Carter, Board Members.

16          Hi, my name is John Hess. I am chief of Technical  
17 and Environmental Engineering Branch with Corps of  
18 Engineers in Sacramento. I appreciate the opportunity to  
19 address the Board this morning.

20          This briefing was requested by me, to Mr. Jay  
21 Punia and others, to clarify a letter that we had sent in  
22 response to a letter from Mr. Archer regarding the Linda  
23 break site. That first letter was not very clear in its  
24 language and we regret that. And I'm going to talk about  
25 that a little bit later in the slides I have.

1           We have sent a new letter to Mr. Archer to clarify  
2   our position. The last time I briefed the Board on Yuba  
3   basin was in 2005. That was a different Board. So I've  
4   got some information here. If you would bear with me,  
5   I've got about nine slides here. I would like to take the  
6   opportunity to talk a little bit about some of the issues  
7   in the area.

8           By the way, the Kleinfelder report that was  
9   mentioned in 2004, that was a report that Kleinfelder was  
10  doing as a subcontractor to HDR. HDR was the contractor  
11  for that.

12          I would like to cover these general areas -- just  
13  a little bit of introduction for myself, because this is  
14  the first time before this particular Board and the Corps  
15  organization. I would like to talk a little bit about  
16  some of the levee programs that the Corps is currently  
17  involved with surrounding state programs; I would like to  
18  talk -- and it's always good to remind ourselves what  
19  levee certification is about; and then I would like to  
20  also address our involvement with TRLIA and their efforts  
21  to certify the RD 784 levees; and finally to address the  
22  letters to Mr. Archer.

23                               --o0o--

24          MR. HESS: Just a quick overview on the Corps of  
25  Sacramento district. You may have seen some of this

1 before, but apologize if you have, but I think it's  
2 well -- just if I can take this opportunity to talk about  
3 it. The district has over 700 people. Engineering is one  
4 of the -- is probably the major division in the district  
5 with 235 engineers and scientists. We have two major  
6 branches, in addition to some smaller ones, that work on  
7 design work and levee certification.

8           Firstly, design branch is almost a hundred people.  
9 It has structures, H and H, hydraulics and hydrology;  
10 engineers, water management. The other major branch is my  
11 branch, geotechnical and environmental engineering branch.  
12 We have the dam safety programs with the Corps. We have  
13 geotechnical engineers, geologists, surveyors, and GIS  
14 specialists as well as other scientists.

15           A quick bio on myself, just so you know who I am.  
16 I probably would certainly hope to address the Board in  
17 the future on various issues.

18           I'm a professional engineer and have been for many  
19 years in the state of California. I'm a geotechnical  
20 engineer and a materials engineer. As you see, I'm a  
21 local boy as far as my education; got my master's at Sac  
22 State. It's been 34 years with the Corps.

23           Some of the prominent, I think, issues regarding  
24 levees that I've been involved with is, I was the field  
25 lead for all the Corps of engineers field efforts in the



1 1997 flood fight. There was -- in 2003, you may see -- an  
2 item called the Levee Seepage Task Force, occasionally  
3 referred to. That was a rather innovative program that  
4 was created by the Corps -- I was the creator and project  
5 manager of that effort -- which took a look at existing  
6 Corps criteria for levees, particularly in the California  
7 area, came up with changes to that criteria that we apply  
8 locally. It also produced changes to Corps Y criteria,  
9 some documents that were bad criteria, where it was  
10 withdrawn and some levee criteria was improved and changed  
11 because of that task force.

12 Finally I'm currently involved -- have been and am  
13 currently involved with Corps of Engineers' National  
14 Committee on Dam Safety and Levees.

15 --o0o--

16 MR. HESS: Very briefly some of the extraordinary  
17 programs that are underway. We just briefed this to my  
18 boss, Tom Trainer, chief of engineering, and talked with  
19 some other districts about this, because it is rather  
20 extraordinary. And I'm certainly not going to try to  
21 cover these in great detail.

22 There are two congressional bills, that are  
23 hopefully going to be going through Congress at some  
24 point, regarding a very new program, a national levee  
25 safety program. The Corps of Engineers in states have a

1 national dam safety program. The plan for these bills is  
2 to create, under the auspices of the Corps of Engineers, a  
3 levee safety program, nationally.

4 But some of the other things that are involved,  
5 currently, of course, as you have seen in the list, we are  
6 certainly very involved with assisting FEMA, in the state  
7 of California, on flood plan mapping. We have a new Corps  
8 program, a national levee database, that we are working  
9 with the State of California on, that will create a fairly  
10 comprehensive GIS-based data base on levee information and  
11 levee risk.

12 We have had, for years, with the State of  
13 California, an active inspection-completed work program  
14 where the state of California is doing most of the levee  
15 inspections, but the Corps of Engineers reviews that work.  
16 And we do some of our own inspections.

17 Currently, we are going to be getting some  
18 assistance from the State under the urban levee program.  
19 We have been attending some meetings, and we are just  
20 awaiting funding right now to begin some serious effort in  
21 producing our levee data and performance data, that will  
22 go into the state GIS database. And as you're probably  
23 aware, the PL84-99 repairs that you've been involved with  
24 this year are rather extraordinary, an awful lot of work  
25 that we will be continuing into next year.

1           We have civil works, levee projects that are  
2   mentioned here including those around Sacramento, on the  
3   American River Common Features Program, but also Yuba, as  
4   you know, Sutter, the Delta programs and others.

5           And we are involved in the last few years with  
6   levee certification, certainly much more than we have been  
7   with any programs previously.

8           We have some Corps task forces that are working  
9   right now on levees. There's a risk methodology group  
10  working under headquarters. There's an inspection from  
11  completed works group that's also working in some others.  
12  These teams have members of my staff on them, and I am on  
13  one that we hope to create an overall policy group,  
14  shortly.

15          In addition, I wanted to mention, in July this  
16  year, there will be a levee workshop here in Sacramento  
17  one evening, and a couple of days of technical  
18  presentations sponsored by ASCE and SAME, Society of  
19  American Military Engineers. The chief of construction  
20  and myself are working on that effort, as we're members of  
21  these groups.

22          I might add, since Katrina was mentioned, as part  
23  of that levee workshop, it's my intention to bring some of  
24  the folks that were involved with the Lessons Learned  
25  document, that the Corps prepared, called the IPED,

1 Interagency Performance Evaluation Team. That's a major  
2 document that's up on the Corps Web site, that has the  
3 lessons learned from Katrina. And I'm hoping to bring  
4 folks from that group out here to brief on that document.

5 --o0o--

6 MR. HESS: A quick reminder on levee  
7 certification; something we always take a look at, every  
8 time we're asked to certify levees. This is government,  
9 of course criteria. It's in the Code of Federal  
10 Regulations, 44 CFR 65.10. And it has stipulations on the  
11 items shown, that we take very seriously and review with  
12 great care. Corps criteria is also used when we certify  
13 these levees. Corps criteria, in fact, is the basis of  
14 the CFR.

15 In addition, there's local criteria that we have  
16 come up with at the district, Sacramento district, that's  
17 available and is used actively on levee certification.

18 A couple of the items might be of interest for the  
19 issues at the Linda break site. We take a very careful  
20 look at seepage. That is governed by what we call  
21 hydraulic gradience. And to try to simply that a little  
22 bit, that's basically water pressure underneath and  
23 through a levee. So we have specific criteria that we  
24 developed here, in Sacramento, as part of that Levee  
25 Seepage Task Force, that has now been translated into

1 Corps-wide criteria.

2 For stability, we also look at land side and water  
3 side stability.

4 On the water side, rapid draw down is the main  
5 analysis that we do. This is a rather severe analysis.  
6 It assumes, in the instantaneous draw down, that it could  
7 be on the order of five feet or more of water against a  
8 levee.

9 In almost all areas of California, this type of  
10 failure is really not an issue. And the Delta is the one  
11 exception to that. But in most levees in California, we  
12 never have draw downs that are instantaneous. Even if it  
13 should occur, depending on the levee, it is probably  
14 unlikely to fail the levee, but there could be a slope  
15 failure. But the assumptions for that kind of analysis  
16 are rather severe.

17 For the conventional land side, we look at what's  
18 called a steady state seepage condition, assuming  
19 everything is saturated already, and then the storm comes  
20 and analyzing stability of the levee.

21 We take a very close look at the other items on  
22 this list. Interior drainage is the exception. The local  
23 agencies are responsible for this. If an agency asks the  
24 Corps to certify a levee, we are not actually the  
25 certifier. We provide a letter to the agency or entity

1 stating that all these requirements, with exception of  
2 interior drainage are met, and then a copy of that goes to  
3 FEMA automatically.

4 We do look at operation maintenance. The entire  
5 system has O&M manuals that we review for levee  
6 certification, and make sure there's an active program.

7 --o0o--

8 MR. HESS: Now, regarding RD 784 levees, we do  
9 have, as I mentioned earlier, a civil works program, Yuba  
10 Basin, that has a feasibility study. That's underway.  
11 This is a general reevaluation report effort that's in  
12 progress with the locals and with the state.

13 As far as --

14 MEMBER BURROUGHS: Can I interrupt you for just a  
15 second? And when do you expect that study to be  
16 completed?

17 MR. HESS: Now, I apologize. We just got briefed  
18 on this about a week ago. And I do not recall. I think  
19 it's at least a year away.

20 MEMBER BURROUGHS: Thank you.

21 MR. HESS: As far as the TRLIA work, we were  
22 involved by Three Rivers at the very initiation of their  
23 efforts. They wanted us to eventually certify levees, but  
24 they wanted us to be intimately involved with the review  
25 of all their work as they went through analysis, through

1 design, and through construction.

2 And so we have done that. We have a team that has  
3 been attending their meetings, reviewing their documents,  
4 all the way through the process.

5 And I have to say, one of the most cooperative  
6 atmospheres that I have seen on a program like this, and  
7 the high quality team that they have of consultants on  
8 this work. Levee certification has been requested to the  
9 Corps and are a part of this system. And we are presently  
10 highly involved in finishing up a review of that -- of all  
11 the work on those areas.

12 Just last week, I made a personal visit to the  
13 areas on the Yuba River, the Western Pacific Interceptor,  
14 and the Bear River, including the setback, with my staff,  
15 to review all of that work and take a personal look at it.  
16 They briefed me, just a couple days ago, on all the  
17 details of their review. They have a rather extraordinary  
18 checklist that we go through on levee certification. We  
19 take this extremely seriously.

20 I think most agencies and consultants, if you ask  
21 them about the Corps certification, they will tell you how  
22 stringent and conservative we are. It's probably rather  
23 irritating for them, but we take this very seriously.

24 We take a look, of course, at all the items in the  
25 CFR. We also are going to make sure that the construction

1 actually follow plans and specs. And that includes --  
2 that is on the checklist of items that I was briefed on.

3 We look at all the utilities that go under and  
4 through the levee, in detail. A lot of that information  
5 right now is what we are waiting for, to complete our  
6 review.

7 Right now, we're encountering no major issues on  
8 the various levees I mentioned as far as levee  
9 certification. We are still going through review. We're  
10 very close to being done. We're waiting for some more  
11 information from Three Rivers. We've had some meetings  
12 with them and what we need to complete this. I am  
13 expecting, once those items are completed, we will be  
14 issuing a certification letter. It is signed by my boss,  
15 Tom Trainer, chief of engineering, with my recommendation.

16 --o0o--

17 MEMBER BURROUGHS: While you're in a pause for a  
18 moment, but since there's so much information, I didn't  
19 want to have to go back and ask all the questions.

20 But does that inspection include the area that  
21 we're talking about?

22 MR. HESS: It does. That's on the Yuba river.

23 MEMBER BURROUGHS: Where the boulders are?

24 MR. HESS: Yes. You're looking at the break site  
25 right now.



1           The picture there shows the break site in the  
2 background. You will see, on the right-hand side, there's  
3 the 90-foot sand berm -- we call a seepage berm -- that  
4 then widens out to a 300-foot wide berm in and around the  
5 break site.

6           SECRETARY DOHERTY: But isn't that where we just  
7 heard there was a holding pond being constructed?

8           MR. HESS: I'm not sure whether -- whether they  
9 were referring to earlier times. Or there is a current --  
10 way off to the right, there is a Caltrans surface drainage  
11 basin that's being constructed too. And that may be what  
12 they are referring to. My understanding is that's only  
13 supposed to be a few feet deep. When we went out in the  
14 field, we immediately identified that, and we went back to  
15 Three Rivers asking, "What is this?" And so we're getting  
16 information on that right now.

17           Right now, my engineers are telling me, they don't  
18 have any particular issues with that as long as it's  
19 constructed the way it was intended.

20           SECRETARY DOHERTY: So what are the dimensions of  
21 this holding basin?

22           MR. HESS: I don't have the dimensions. We're  
23 waiting for that information. I understand it's a couple  
24 feet deep though.

25           SECRETARY DOHERTY: So Caltrans would have to pull

1 the permit for that?

2 MR. HESS: I'm probably the wrong person to answer  
3 that. Don't know.

4 MEMBER BURROUGHS: But you did see it?

5 MR. HESS: Oh, certainly. There's a shallow  
6 trench right along the road, which, I think, is just out  
7 of the picture, behind the berm, and then there's a basin.  
8 It's not a large one. It's certainly nowhere near as big  
9 as this berm. But there is a basin. I believe, I  
10 understand the surface drainage from the road normally  
11 would go into where our berm is, with the loss of that  
12 area. And Caltrans probably wants the surface drainage  
13 then to go into this holding pond.

14 SECRETARY DOHERTY: Mr. Brunner?

15 PRESIDENT CARTER: Let's continue with Mr. Hess's  
16 presentation. Then we'll go back.

17 SECRETARY DOHERTY: All right.

18 MR. HESS: A little bit of the information on the  
19 Linda break site. I have seen some documents and some  
20 folks that have said that rapid drawdown. That is, on the  
21 water side, when you have a 5 foot or more immediate drop  
22 in the water level, that that caused the Linda break.

23 That's almost certainly not the case. The  
24 almost-certain cause of that break was seepage and piping.  
25 And that's been substantiated by a number of engineers

1 since that time, with the State of California and the  
2 Corps and consultants.

3 SECRETARY DOHERTY: Did you say "piping"?

4 MR. HESS: Seepage and piping. And if you would  
5 ever like some information on that, I can certainly  
6 provide that. When we have seepage that's occurring  
7 underneath or through the levee, there's always the risk  
8 that that seepage will start moving particles from the  
9 interior of that levee underneath it. When that starts  
10 happening from the land side of the levee, not the water  
11 side, the land side, moving particles. As particles move,  
12 if they are, they can create what actually looks like a  
13 pipe underneath or through a levee. That pipe builds and  
14 works its way back underneath the levee. Eventually, it  
15 could make contact with the river itself. Once that  
16 happens, you have massive water flowing through, moving  
17 the matter. That will undermine the levee and it will  
18 collapse. And that's almost certainly the cause of the  
19 Linda break. That break was closed by large rock. We  
20 have to use that to resist the flows that are coming into  
21 and through that break. So that's certainly true.

22 That's true with all other breaks in the system.  
23 That is how we close these large breaks; in the '97 flood  
24 and in the '86 flood and floods previously. There is  
25 really no other alternative.

1           MEMBER BURROUGHS:  Would you -- would you consider  
2   that, at that point in time, an emergency action?  That's  
3   the only thing you can do at that point, when that water  
4   is just gushing through there.  But then once the flood  
5   season is over, then isn't that permit -- I mean, isn't  
6   that rock material, then, not the best for future?

7           MR. HESS:  That's absolutely right.  That's  
8   absolutely right.  We're always concerned about that,  
9   because when you have rock that size, the permeability  
10  through that part of the levee is going to be much greater  
11  and more seepage.  And we see that in practice as well.

12           So we are concerned about that.

13           MEMBER BURROUGHS:  Thank you.

14           MR. HESS:  Now, there are ways to deal with that.

15           As you are aware, we have -- looking at this  
16  levee, we have slurry cutoff walls that are to the east of  
17  the break site, which is in the far background, and to the  
18  west of the break site, about where this photographer was  
19  standing.

20           That slurry cutoff wall does not go through the  
21  break site.  And it can't.  With that rock there, it  
22  cannot really make a slurry cutoff.  And that's the case  
23  with other breaks as well.

24           However, it is a misconception that slurry cutoffs  
25  are the only method of treating levee seepage.  There are

1 three major methods that we use, in California, in the  
2 United States, to deal with seepage and levees. First,  
3 the cutoff walls, of course, tend to be quite expensive.  
4 But we also use relieve wells, to relieve pressure, water  
5 pressure underneath the levee. And we use that all over  
6 the state.

7 And we have seepage berms. That is probably  
8 the -- if you have enough land behind the levee, it's  
9 probably the least cost and one of the most preferred  
10 methods. Seepage berms, like the one you see here, are  
11 generally built, preferably, of clean concrete sand. But  
12 when somebody says, "It's a sand mound," or something like  
13 that, well, it's supposed to be. The idea behind the  
14 seepage berm is to provide for some weight of the total  
15 levee. That's -- that's helpful. But more importantly,  
16 it acts as a filter.

17 I mentioned this piping that can occur. If that  
18 starts occurring, this berm, acting as a filter, will stop  
19 the movement of soil particles from underneath the levee.  
20 The water will try to get those soil particles into the  
21 berm. It acts as a filter; stops that movement. It will  
22 still allow the water pressure to be released, but it will  
23 stop the particle movement. They are very effective. And  
24 that's the treatment that was applied here and many other  
25 break sites and other levee remediation sites.

1           We understand, you know, particularly for  
2 non-engineers, it's a difficult concept. It's always nice  
3 to have a cutoff wall and a relatively impermeable barrier  
4 through a levee, but that isn't always practical.  
5 Sometimes we have to go so deep that you just cannot  
6 establish a place to found that cutoff wall and cutoff  
7 wall seepage. If we don't cutoff wall seepage, they are  
8 not very effective.

9           And we have places like this, where you have rock,  
10 where it's extremely difficult if not impossible to put a  
11 cutoff wall in. And as I said, these other treatments are  
12 used up and down the state, very successfully.

13           There is new analysis on this site that has been  
14 done, by Three Rivers and the consultants. It has not  
15 been published yet, since the 2004 Kleinfelder report has  
16 been mentioned. This is an updating of that analysis,  
17 which is a stability analysis for the levee between the  
18 railroad and 70, Highway 70.

19           That analysis shows that we have stability that  
20 meets criteria. We have no evidence or concern about  
21 erosion; because the slopes in this levee -- there was an  
22 earlier picture in your packet of the upstream face of  
23 this levee -- is rather gentle.

24           Rapid drawdown meets criteria. There's a factor  
25 safety of 1.17. Our criteria is 1.1 to 1.3. As I said,

1 rapid draw down is rather severe. That analysis is very  
2 severe. So if we get in that range, we're just fine.  
3 That is not the major mode of failure of levees in the  
4 Central Valley. The major mode of failure in the Central  
5 Valley is overtopping of the levees; secondly, seepage and  
6 piping.

7 --o0o--

8 MR. HESS: I believe the Board has a copy of the  
9 newer letter that we have sent to Mr. Archer, that  
10 clarifies the Corps position on the questions he raised  
11 regarding the Linda break site. We regret the confusion  
12 that we have caused by that earlier letter. That was our  
13 error.

14 This new letter hopefully clarifies our position  
15 on the Linda break work. We're a serious reviewer of the  
16 Three Rivers' efforts and their request for levee  
17 certification. We're satisfied with the work that's been  
18 done at the levee break site, that this is a good fix.  
19 And we are also satisfied that Three Rivers is proceeding  
20 in a satisfactory manner on the other areas that they are  
21 working on for levee certification. We have confidence in  
22 their work and the team and the work, as I said, done to  
23 date.

24 As always, I would like to just finally mention to  
25 the Board, any time there are issues where the Corps of

1 Engineers needs to address something to the Board, you  
2 know better than I, we have a great partnership in the  
3 flood control system in the state of California. We are  
4 available any time to address issues to the Board, where  
5 there may be confusion that we have created or anything  
6 else.

7 I appreciate the opportunity. And I'm available  
8 for questions.

9 PRESIDENT CARTER: Thank you very much for joining  
10 us, Mr. Hess. Are there questions for Mr. Hess?

11 MEMBER RIE: Yes.

12 Mr. Archer raised some issues regarding the  
13 boulders. Would it be your recommendation to take those  
14 out at some time in the future? Or are they fine the way  
15 they are?

16 MR. HESS: We always take a look at whether we can  
17 remove them. It's a rather extraordinary effort to try to  
18 do that. We don't believe it's necessary. And in other  
19 breaks, where we have those kind of -- that kind of large  
20 rock, we do not generally remove them; like the Arboga  
21 break, like breaks down south of Sacramento and San  
22 Joaquin system. We put the rock in, and then we use these  
23 other features that are reliable to then remediate for the  
24 fact that those rocks are there. But we don't have any  
25 concern about it.



1           VICE PRESIDENT HODGKINS: Just -- to clarify one  
2 point, I think I heard you say that with respect to sun  
3 dry-out it fundamentally is a condition that doesn't  
4 happen in the Sacramento or the San Joaquin system,  
5 because those systems never change level rapidly enough to  
6 create the sun dry-out.

7           MR. HESS: That's absolutely correct.

8           MEMBER BURROUGHS: Except for the Delta.

9           MR. HESS: The Delta can be an exception because  
10 of tidal action. You can have that condition developing,  
11 and we do analysis for that.

12          VICE PRESIDENT HODGKINS: I have a question for  
13 Steve.

14          Steve, apparently Caltrans is constructing a  
15 detention basin. Sounds like it's outside the limit of  
16 our easement.

17          Do they still have to get a permit?

18          CHIEF ENGINEER BRADLEY: What the regs require on  
19 this is that, at the minimum, it would be 25 feet beyond  
20 our -- the levee, the flood protection structure. In this  
21 case, the seepage berm becomes part of the flood  
22 protection structure, and that the depth did not intercept  
23 any slope. Normally, they would be talking about the  
24 levee slope. And the seepage berms are not really dug  
25 into the ground there.

1           We did ask an inspector to go up there. They  
2 haven't made it yet. We did hear about this, but we have  
3 not -- it has not been inspected at this time.

4           VICE PRESIDENT HODGKINS: Okay.

5           CHIEF ENGINEER BRADLEY: So I think the depth of  
6 this, the actual location in relation to the seepage berm  
7 would determine whether they needed a permit or not. It  
8 can also be further than 25 feet, if we think there's a  
9 problem.

10          VICE PRESIDENT HODGKINS: And am I correct in  
11 assuming that once you get outside the easement, sometimes  
12 the agency who's doing the work doesn't know they need a  
13 permit. And if they don't come forward, whether we find  
14 it or not is a matter of whether we happen to have  
15 somebody that says, "Hey, what's going on here?"

16          CHIEF ENGINEER BRADLEY: That's pretty much the  
17 way it works, in actuality.

18          MR. HESS: I guess I would like to make a comment  
19 on that. It's good to remind ourselves about this 80 --  
20 there is a Code of Federal Regulations, a separate one  
21 than the FEMA guidelines, regarding the flood control --  
22 national flood control systems that the Corps of Engineers  
23 participates in.

24          That code basically states two conditions for  
25 situations like this, with basins and something that

1 affects the flood control structure. We have a  
2 responsibility to review and approve anything that is  
3 within the footprint of the flood control structure. So  
4 with any easement or something, we would certainly review  
5 anything.

6           However, there's another provision in that code  
7 that many people don't quite realize. That is, we also  
8 have authority over anything, anywhere, that affects the  
9 performance of that flood control structure. That does  
10 not have to be in the footprint of the flood control  
11 system. So this basin would still fall under our review,  
12 and we are going to be looking at it.

13           VICE PRESIDENT HODGKINS: And I agree with you a  
14 hundred percent. But the point I was trying to make, for  
15 all of us to understand -- and Caltrans is perhaps not the  
16 best example because they ought to know, it's not real  
17 smart to dig a hole next to a levee -- but, you know, a  
18 lot of people who just don't understand that and don't  
19 think about it. But the work gets going and maybe we find  
20 out about it.

21           PRESIDENT CARTER: Any more questions for Hess?

22           MEMBER BURROUGHS: I would like to know if our  
23 legal counsel or staff has any questions also?

24           PRESIDENT CARTER: I do have, before they respond.

25           I do have one question: With regard to the

1 alleged scour trench, as a result of the '97 break at this  
2 site, the 90-foot and 300-foot seepage berm takes area of  
3 that -- that concern, with regard to potential piping in  
4 this scour trench?

5 MR. HESS: That's correct. That's our position.

6 PRESIDENT CARTER: Okay. All right. So we  
7 shouldn't worry about the scour trench. We shouldn't  
8 worry about the rock being left there, in place?

9 MR. HESS: That would be my recommendation.

10 SECRETARY DOHERTY: One question I had is: Once  
11 again, the letter from Colonel Light to Mr. Archer said  
12 that -- in the fourth paragraph -- "It performed as  
13 desired in the recent high water event." Well, what high  
14 water event did we have recently?

15 MR. HESS: We didn't have a high water event,  
16 certainly like '97 or '86, but there was 3 to 5 feet of  
17 water that would have been against that levee. And even  
18 at that level, it would give us a little bit of an  
19 indicator on how that berm was performing. But we weren't  
20 expecting any problems at that water level. But it did  
21 okay.

22 SECRETARY DOHERTY: So we haven't reached the  
23 rainy season, but that riverbed has completely risen out  
24 of -- where the river usually is, and it has gone over  
25 that embankment?

1 MR. HESS: It was then, in '06.

2 SECRETARY DOHERTY: No, not -- when in '06?

3 MR. HESS: During our flood event in '06, in  
4 January and March.

5 SECRETARY DOHERTY: Of last -- a year ago, in  
6 January.

7 MR. HESS: In January. There's no water against  
8 it now.

9 SECRETARY DOHERTY: That's what I was trying to  
10 get at. Thank you.

11 MR. HESS: No. It's all dry.

12 PRESIDENT CARTER: Any other questions for  
13 Mr. Hess, from staff, from the Board?

14 VICE PRESIDENT HODGKINS: I have a question for  
15 Mr. Archer and the citizen folks.

16 PRESIDENT CARTER: Can we do that in a moment,  
17 Butch? Can you hold that? Anything more for Mr. Hess?  
18 Okay.

19 MR. HESS: Thank you very much.

20 PRESIDENT CARTER: Thank you very much. Could I  
21 propose taking a ten-minute recess right now, and we will  
22 continue with further questions and rebuttal and so forth  
23 on this item.

24 So we'll reconvene -- let's say 11 o'clock. So a  
25 little less than ten minutes. Thank you.

1           (Thereupon a break was taken in  
2           proceedings.)

3           PRESIDENT CARTER:  Everyone please take their  
4   seat.  We will continue.

5           Ladies and gentlemen, just as a reminder, we are  
6   on Item 8, Three Rivers Levee Improvement Authority  
7   Monthly Report along with other comments with regard to  
8   the project.

9           I think what we'll do is -- Mr. Brunner, would you  
10   like to share your comments in response to some of the  
11   public comment that has happened.

12          MR. BRUNNER:  Yes, I am Paul Brunner, the  
13   executive director for Three Rivers Levee Improvement  
14   Authority.

15          And President Carter, I would like to say,  
16   actually thank you, to allow me to have the opportunity to  
17   wait a little bit before I immediately responded.  It  
18   definitely allows me to be more concise in my comments and  
19   make a little bit of motion here, from what was said  
20   earlier.

21          I wanted to hit on just a couple points.  I think  
22   Mr. Hess from the Corps did a really great job presenting  
23   what our project is and the teamwork we've been able to  
24   share with DWR and the Corps on the project.

25          The entire drainage basins and all that, that

1 we're working through is the Caltrans operations going on  
2 out there. And I would just like to extend the offer up  
3 front, for the Rec Board. I think we've been above, open,  
4 working extensively. Come out, look to see what we're  
5 doing, visit the levees again, and the operations. I'd be  
6 delighted to show you what we are doing. We are working  
7 through the issues. There are a few remaining items with  
8 the Corps. I think Mr. Hess spoke to that. As we work  
9 through, we expect to have those resolved very soon and  
10 move on towards certification.

11 Our goal for Three Rivers, I think, is one as well  
12 as your goal; is still to get those levees to 200-year.  
13 The Western Pacific Interceptor Canal and the Bear River  
14 that we have moved forward for certification, also, we  
15 believe are at the 200-year.

16 FEMA requires a hundred-year certification.  
17 That's what we work toward.

18 The Yuba River levee is one of question. I mean,  
19 we have a pending issue before you on the Yuba River  
20 levee, on raising to get to 200-year. So no matter how  
21 much we push and move back and forth, we're not going to  
22 get there right away, potentially if we do the Feather  
23 River setback, just by lowering the level of water on the  
24 Yuba River. That will take care of itself.

25 But our goal is 200. Our goal is to certify, for

1 FEMA, to a hundred. And that's what we are working with  
2 the Corps to do.

3 So with that, those are the end of my remarks, the  
4 rebuttal.

5 If there's questions, I would be glad to respond.

6 SECRETARY DOHERTY: What area is of concern that  
7 is preventing the 200-year protection?

8 MR. BRUNNER: It is actually from the railroad,  
9 UPR, is up to Simpson Lane, was that four-inch issue they  
10 were talking about. There is a small stretch between the  
11 railroads and Highway 70 that we would have to raise a  
12 little bit too. So we had planned to do that during our  
13 next construction season, to get it to 200-year.

14 SECRETARY DOHERTY: And so the area that includes  
15 the boulders is not in any question?

16 MR. BRUNNER: In question for what?

17 SECRETARY DOHERTY: It could be certified now, as  
18 being perfectly -- it is certified now as being perfectly  
19 safe; is that correct?

20 MR. BRUNNER: In our opinion, it is. And I think  
21 as Mr. Hess presented in his discussion here, I think the  
22 Corps is reaching that same conclusion in that analysis.  
23 We submitted that breach of the levee, that you are  
24 describing, to the Corps for certification of the  
25 hundred-year level. And the -- and I believe the



1 presentation -- our opinion is, yes. And in his response,  
2 I think we are going to reach the same conclusion.

3 I think you saw that during the presentation.

4 VICE PRESIDENT HODGKINS: Paul, don't you need to  
5 raise that levee slightly to achieve 200-year?

6 MR. BRUNNER: To achieve 200-year, yes. But the  
7 question on certification is the hundred-year.

8 VICE PRESIDENT HODGKINS: I'm not sure that was  
9 the case. But I will let it go. Okay.

10 So hundred-year, they've got. 200-year, they  
11 don't have, because they need to raise that levee to  
12 achieve 200-year.

13 And that item has never come before the Board.

14 PRESIDENT CARTER: It will at some point.

15 MEMBER RIE: Are you still shooting for March?

16 MR. BRUNNER: I will respond. That's our  
17 expectation.

18 PRESIDENT CARTER: That's what is on our schedule  
19 at this point, is to review the levee raise in March.

20 So any questions? Any further questions for  
21 Mr. Brunner?

22 VICE PRESIDENT HODGKINS: Just a comment.

23 So you know, I'm going to ask the other gentleman  
24 to come back up and he gave us, in their handout, a little  
25 map, where, I think, he, in effect, has identified what he

1 considers to be a defect in each of these reaches, either  
2 in terms of work done that wasn't permitted or work that's  
3 permitted that hasn't been done.

4 And I'm not sure we are going to resolve those  
5 today, but I want to be sure I understand specifically  
6 what they are, so that before the next meeting, we have  
7 the ability to resolve those. So you might stick around,  
8 if you can respond quickly.

9 PRESIDENT CARTER: So Butch, why don't you ask  
10 that question.

11 MR. BRUNNER: Thank you.

12 VICE PRESIDENT HODGKINS: I'm sorry. My memory is  
13 just totally fleeing me.

14 PRESIDENT CARTER: That would be Mr. Archer.

15 MR. ARCHER: Go through the alphabet, Mr. Vice  
16 President. Thank you.

17 VICE PRESIDENT HODGKINS: This is in the packet  
18 that got handed out. And just start, if you would, at  
19 A --

20 MR. ARCHER: Okay. A is one from another permit  
21 that I'm not involved in right now. It's a question on A.

22 B is called levee flattening. Now, that's  
23 permitted under the permit that I've cited here several  
24 times today, 1805GM.

25 And Reach B should be completed between August 1st

1 through August 30th. Now, these aren't things that your  
2 Board put out. These are things Three Rivers said they  
3 would do if you gave them the permit.

4 Now, they did not do that. What should have  
5 happened, there was flattening the water side slope to  
6 maintain the 3-to-1 slope that's required by the Corps of  
7 Engineers and whoever else, unless they have changed.

8 VICE PRESIDENT HODGKINS: You have defined that  
9 one very clearly.

10 MR. ARCHER: Reach C was for levee raising. It  
11 was permitted, but this Board turned it down.

12 We'll forget reach C because there was no levee  
13 reaching.

14 We'll move onto reach D, which is levee raising  
15 again. It was turned down by this Board so we will  
16 regress.

17 Now, we'll move to reach E. Now, reach E is the  
18 eastern end just east of the Union Pacific Railroad. And  
19 there, there was supposed to be a project to be done  
20 between late July through October the 31st. That included  
21 a slurry wall from that railroad track, to Simpson Lane.  
22 As far as I know, that slurry wall is there. I've never  
23 contested it.

24 However, a seepage berm, 380 feet long and shaped  
25 in a triangular shape, with the telephone poles in it, was

1 to be put there between the Union Pacific Railroad and a  
2 spur line right there and a ready mix company. That was  
3 not put there. When I approached Yuba County Board of  
4 Supervisors this past Tuesday, and I told them these  
5 things, Mr. Rick Rinehart went up and he spoke on one  
6 podium and I spoke on another and I asked, "When were you  
7 going to do this?"

8 "This week."

9 I said, "You are going to do it this week?"

10 "I'm going to put that in this week."

11 And I said, "Do you have a permit?"

12 Well, to this day, there is no permit, that I know  
13 of, to put a seepage berm in there, that has been  
14 fulfilled.

15 You have to stop constructing September the --  
16 November the 1st and open up again April the 15th. That's  
17 passed. Three Rivers, as I said when I started this,  
18 doesn't pay attention to your rules. "We are going to fix  
19 it next week."

20 So as far as I know, they have to probably ask you  
21 for a variance or something. I don't know. But there's  
22 no reason for them to go in there now when they had three  
23 solid months to put that in, that little -- they told me,  
24 it's like a 15-day job. Somewhere back through there,  
25 they could have put a 15-day job in there.

1 But they did not want to put that there. They  
2 didn't want to put reach B in. And that's shameful to me.

3 Your question again?

4 VICE PRESIDENT HODGKINS: That's fine. That was  
5 very helpful for me.

6 MR. ARCHER: That helps you now?

7 VICE PRESIDENT HODGKINS: Yeah.

8 MR. ARCHER: Now, I add on thing: They said there  
9 is no rapid drawdown related to the Linda levee. 1986, I  
10 was working on that levee. The water was dropping. The  
11 water was dropping way down. It was over with. The  
12 emergency was over.

13 I called my wife and says, "Come home. The water  
14 is dropping." At 6-something that evening, the water was  
15 dropping even lower, and the levee failed. That is rapid  
16 drawdown. It was stated in the newspapers by everybody  
17 that had any authority back then. They have changed it  
18 today, but I was there.

19 Seepage berm, they let you believe that is a  
20 Caltrans program. That is not a Caltrans program. I went  
21 there and talked to the foremen, HDR. He says, as I told  
22 you earlier, "It's under the permit of that levee right  
23 there. We have to mitigate Caltrans' overflow of water  
24 because we took some of their land." All right. Now, I'm  
25 not choosers [sic]. Slope, 1.0 to 1.3. If that levee --

1 and I have sent you pictures up there, has all them  
2 boulders and stuff on there. If that levee was bad in  
3 2004, nothing has been done except somebody took the  
4 boulders away. Nothing has been done to fix that slope  
5 back. It can only be, ladies and gentlemen, worse today.  
6 They did not even address that.

7 I would like for one of you to ask the question:  
8 If they think that levee is better today than it was in  
9 2004, when they paid money to Kleinfelder to state that.

10 Any more questions? I'm through.

11 PRESIDENT CARTER: Any questions for Mr. Archer?

12 Okay. Thank you.

13 MR. ARCHER: I will be glad to come back.

14 VICE PRESIDENT HODGKINS: Mr. Brunner, two things:

15 Can you tell us anything about leveling reach B on the  
16 water side to a 3-to-1 slope?

17 MR. BRUNNER: Yes. We have -- that leveling of  
18 the slope was part of our levee work. That was to be  
19 included in raising the levees. We have actually taken  
20 that into consideration in not doing that.

21 We also do not believe, along with the Corps, that  
22 that's a 100-year certification issue. We believe that's  
23 a 200-year issue that got entrapped with this whole  
24 discussion that we have now with raising of the levee.

25 We did go through and prepare a response that

1 we're working on each one of the items, that Mr. Archer  
2 has raised, about our permit. We did work through this.  
3 They are all items within the permit -- or the levee  
4 certification that we're working with the Corps. And each  
5 one of the items that are being addressed are being worked  
6 through. And we believe, along -- as I believe, Mr. Hess  
7 presented in those presentations, that those levees will  
8 be certifiable and will be good flat structures.

9 VICE PRESIDENT HODGKINS: I know you're saying  
10 this is not your view as well. But I think the Board's  
11 view is that the work is going to be done to provide  
12 200-year protection.

13 MR. BRUNNER: Correct.

14 VICE PRESIDENT HODGKINS: And we haven't denied  
15 raising the levee. We just haven't considered the  
16 question. It's probably --

17 MR. BRUNNER: We have postponed.

18 VICE PRESIDENT HODGKINS: Yeah. Okay. Okay.

19 How about the seepage berm on the slurry wall -- I  
20 guess, it's east of the tracks?

21 MR. BRUNNER: We expect the seepage berm to go in  
22 next week. The -- it is also a subject of debate, as a  
23 100-year or 200-year requirement. As what we need to do,  
24 we had a real estate acquisition issue, which we are now  
25 finalizing and we can now move to make that happen. It's

1 one of the discussions that we're having to review the  
2 last remaining items that we have with the Corps. We have  
3 filed for an encroachment permit for that particular berm.  
4 Your staff, the Rec Board, as responded back, and allowed  
5 us to do that work between now and the end of January.

6 VICE PRESIDENT HODGKINS: All right. Very good.  
7 Steve?

8 CHIEF ENGINEER BRADLEY: Yeah. That work is  
9 actually part of that permit, 18095, that's been discussed  
10 earlier today. What Mr. Brunner is referring to, is they  
11 requested a variance this week. It was dated  
12 January 16th. I received it on the 17th. I signed it and  
13 we sent it back out. So they do have a variance to  
14 work -- conditions are dry. We would normally restrict  
15 work under these conditions at the moment.

16 MR. BRUNNER: The timing of that is that we  
17 finally were able to break through and get the real estate  
18 acquisition taken care of, to be able to install that.

19 VICE PRESIDENT HODGKINS: Thank you. That's all  
20 the questions I have.

21 PRESIDENT CARTER: Mr. Brunner, with regard to the  
22 Caltrans detention basin that's being constructed now, is  
23 that -- is that part of the mitigation of the seepage  
24 berm? And is TRLIA taking care of that? And exactly, if  
25 we look at this overview of repairs submitted by



1 Mr. Archer, can you tell me where it is?

2 MR. BRUNNER: Well, the repair work is a Three  
3 Rivers project. We acquired the right of way in the  
4 property to be able to put the maintenance drainage in for  
5 this area. It's being provided to -- or allowed the  
6 drainage to flow past Caltrans yard.

7 As far as the picture that you have -- I do not  
8 have that picture. But if you are familiar with the  
9 seepage -- there's a 300-foot seepage berm that goes out  
10 of that, that we talked about. Caltrans sits right there  
11 in that yard, right on the edge of that area. And that's  
12 where that activity is going on.

13 PRESIDENT CARTER: Is it to the south of the  
14 300-foot section of the seepage berm, or is it south of  
15 the 90-foot section of the seepage berm?

16 MR. BRUNNER: The maintenance is along actually  
17 the 90-foot.

18 PRESIDENT CARTER: 90-foot?

19 And is that particular feature of the project  
20 included as part of your permit?

21 MR. BRUNNER: Rick, do you want to address this  
22 point, be precise?

23 MR. RINEHART: Rick Rinehart, MBK Engineers. It  
24 is not a part of the permit. From our perspective, it is  
25 outside of the jurisdiction of the Rec Board.

1           We did work closely in analyzing the impact of  
2   construction, worked with the Corps of Engineers on that.  
3   And it was a condition that was placed on us as part of  
4   the real estate acquisition from Caltrans.

5           PRESIDENT CARTER:   Mr. Bradley?

6           CHIEF ENGINEER BRADLEY:   It is not part of the  
7   permit.  As to whether it lies outside of our  
8   jurisdictions, I think we would have to make that  
9   determination -- the Board determination as to whether it  
10  lies outside of our jurisdiction.

11          PRESIDENT CARTER:   So we have plans to do that?  
12  We're doing that investigation?

13          CHIEF ENGINEER BRADLEY:   Well, we've asked an  
14  inspector to go up and look at it.  I've just seen some  
15  pictures.  That was the first time I had seen that.  I  
16  heard about it.  It must have been Wednesday or Thursday  
17  of this week was the first time I heard about it.  It  
18  probably should have been included as part of the permit.

19          PRESIDENT CARTER:   Okay.  So perhaps that's a  
20  message back to the applicant, that if you are doing  
21  anything near any of these levees you ought to at least  
22  give us a heads-up, whether or not you think it's part of  
23  our jurisdiction.

24          MR. BRUNNER:   All right.  I will comment that  
25  during my previous presentations, that this is not the

1 heads-up we're giving to staff on the issue, but the work  
2 on the Caltrans yard, the maintenance yard, the drainage,  
3 I have been mentioned. It has been in the report. So we  
4 have talked about it whether or not -- it doesn't address  
5 the jurisdictional issue, but we have talked about this  
6 issue.

7 PRESIDENT CARTER: Okay.

8 MEMBER RIE: Question: Could you address the  
9 Kleinfelder report? The Board hasn't seen a copy of it.  
10 But there's issues being raised that there were  
11 recommendations for certain repairs. And did you  
12 commission that study? And what happened with the  
13 recommendations?

14 MR. BRUNNER: I will ask Rick Rinehart to address  
15 it.

16 MR. RINEHART: Rick Rinehart, MBK Engineers.

17 The report that's in question was prepared by  
18 Kleinfelder for the Three Rivers Levee Improvement  
19 Authority. And it was the problem identification report  
20 for the reach of levee from Highway 70 to the Union  
21 Pacific Railroad.

22 And the statements that Mr. Archer quoted was that  
23 Kleinfelder found that the conditions that existed at the  
24 '86 break also existed immediately downstream of the '86  
25 break. They felt that it was a very urgent and dire

1 problem. And so that report was issued in -- sometime in  
2 2004.

3 We went to construction that year on the  
4 50-foot-deep slurry wall to remediate the problem just  
5 downstream of the break.

6 Kleinfelder made the recommendations for the  
7 ultimate repair for this whole reach, which was a slurry  
8 wall downstream of the break and then coming in with the  
9 berm work behind it. And it was Kleinfelder's definition  
10 of the problem and then defining the solution for this  
11 reach.

12 And they don't believe that that reached the  
13 problem out. They believe that it meets the goals of our  
14 design.

15 MEMBER RIE: Okay. So you feel that the  
16 recommendations have been addressed from the Kleinfelder  
17 report?

18 MR. RINEHART: That's correct. They defined the  
19 problem, and that's what that report was. And then they  
20 later come forward with subsequent reports that  
21 recommended design that we then constructed.

22 MEMBER RIE: Do you know if Mr. Archer has copies  
23 of the subsequent reports?

24 MR. RINEHART: I'm not familiar with the reports  
25 that Mr. Archer has in his possession.

1           PRESIDENT CARTER: Do you have those reports,  
2 Mr. Archer?

3           MR. ARCHER: I have seen it. No, I do not have it  
4 with me. I don't even know it exists. The Kleinfelder  
5 report is in my hand. Anything subsequent to that has not  
6 been published like this. I went in under the Freedom of  
7 Information Act, and asked for this, at Yuba County. I  
8 got it. But they brought a real thick one to me. And  
9 that apparently is the one they are referring to. And I  
10 said, "I don't want that one. I want the 2004 book." And  
11 I have it in my hand.

12          MEMBER RIE: Thank you.

13          PRESIDENT CARTER: Okay.

14          SECRETARY DOHERTY: I have one more question: I  
15 think it was reach B where it was supposed to be a slope  
16 of one to three; is that right?

17          MEMBER BURROUGHS: Yes.

18          SECRETARY DOHERTY: And I just have the feeling  
19 you weren't going to do it unless we get the permit to  
20 raise it to the 200-year level -- is that correct? Or  
21 will that work still be done even though you will not get  
22 the permit for the 200-year, to raise the levee?

23          MR. BRUNNER: Most of the work -- most of the  
24 levee, there is that 3-to-1 gap. There is portions that  
25 are not. We will factor that in, into our decision. If

1 we cannot raise the levee up to achieve 200 for the entire  
2 reach, there is a cost factor here as to whether or not we  
3 should do that small portion to change it to three to one,  
4 across the board, to achieve the 200-year goal for that  
5 portion of the Yuba levee that we have.

6 SECRETARY DOHERTY: But at this point, you can't  
7 work in that area right now, anyway, can you?

8 MR. BRUNNER: Correct.

9 PRESIDENT CARTER: Any more questions for  
10 Mr. Brunner?

11 MR. BRUNNER: I think that question will come up  
12 as we continue to discuss the raising of the levee and  
13 what can we do within the 200-year goal for the Yuba levee  
14 for the Yuba River.

15 PRESIDENT CARTER: Okay.

16 MR. SHAPIRO: Just a clarification to make sure  
17 that that's perfectly clear.

18 Scott Shapiro, special counsel for Three Rivers.

19 We were going to have a single contract to have  
20 a -- contractor come out, raise the levee, and do the  
21 slope work to achieve 200-year. When we didn't have  
22 permission from the Board to raise the levee four-tenths  
23 of a foot, we didn't have the contractor come out to do  
24 the slope work just for that.

25 As we evaluated whether there is a Feather River

1 setback levee or you approve whether to do the four-tenths  
2 of a foot raise, we will go back and determine what's  
3 necessary to achieve 200-year protection. At that time we  
4 would have a contractor do the appropriate work within the  
5 windows of the permits that you granted.

6 SECRETARY DOHERTY: But you did have the agreement  
7 to prepare the slope to -- to restore the slope or to fix  
8 the slope; correct?

9 MR. SHAPIRO: We had the agreement?

10 SECRETARY DOHERTY: Wasn't that part of our  
11 agreement with you, is that you would do that?

12 MR. SHAPIRO: You have -- we have agreed to  
13 provide 200-year protection. And the way we were going to  
14 do that is revising that slope, raising four-tenths of a  
15 foot.

16 The contractor that was going to do that work was  
17 going to do both at the same time. When we didn't have  
18 permission to go ahead with the four-tenths raise, we  
19 didn't have the contractor to do the slope work yet.

20 Our agreement, I would say, is not to do 3-to-1  
21 slope. Our agreement is to provide 200-year protection.  
22 If for example, we would lower water surface elevation by  
23 doing a setback levee, the 3-to-1 slope would not be  
24 necessary. We will evaluate that. Our agreement to the  
25 Rec Board is to provide 200-year protection.

1 SECRETARY DOHERTY: Thank you.

2 PRESIDENT CARTER: Mr. Bradley?

3 DR. SMITH: I can't let that go by. The permits  
4 call for that. And I'm sorry. The permits call --

5 PRESIDENT CARTER: Dr. Smith, could you come to  
6 the podium if you want to address?

7 DR. SMITH: I'm very sorry that I have to come  
8 back up here. I just want to --

9 PRESIDENT CARTER: Please reintroduce yourself for  
10 the record.

11 DR. SMITH: Dale Smith, CCRG.

12 I just want you to understand that the permit is  
13 very clear. You must have the permits here. You must  
14 read it. The agreement was the slope would be put back to  
15 that condition. Had nothing whatsoever to do with 100 or  
16 200. Mr. Scott Shapiro promised 200 somewhere in this  
17 whole mishmash. Now we're down to 100 because we must get  
18 FEMA to declare that, because FEMA has now said that this  
19 is all going to go into a 100-thing. And it has to do  
20 with all of the insurance problems and everything else.  
21 And your Rec Board is being conned if you go along with  
22 this. I'm sorry. It is. And I speak deeply from my  
23 heart. Having gone through a flood, I know what it's  
24 about.

25 And you are dealing with people's lives. And all



1 the semantics that they want to bring out here are  
2 semantics. Look out for the protection of the people,  
3 please. That's your mandate from the state of California.  
4 And the whole Paterno case is in that. And the ironic  
5 thing about it is all on that particular levee. We put  
6 out \$455 million to settle all that. Now we're going  
7 through the whole thing again. And woe be unto you, Rec  
8 Board, if that thing goes out, despite what the Army Corps  
9 of Engineers says, today, sorry. I just feel from my  
10 heart, and that's why I had to express it.

11 Thank you.

12 PRESIDENT CARTER: Thank you. Mr. Bradley?

13 CHIEF ENGINEER BRADLEY: Yeah, the permit does  
14 require that the slope to be restored to three to one has  
15 nothing to do with the levee raise. It's more cost  
16 effective to do both at once, but part of the permit is to  
17 do -- restore the slope to three to one.

18 MEMBER BURROUGHS: I have a question: Does it say  
19 in the permit when that is to be completed?

20 CHIEF ENGINEER BRADLEY: No. We usually don't  
21 have completion dates in there. They just must start the  
22 work within a year of issuance of the permit.

23 MEMBER BURROUGHS: When does it need to be  
24 completed? You mentioned when it needs to be started.

25 CHIEF ENGINEER BRADLEY: Right. There is usually

1 nothing that says when it needs to be completed. That's  
2 the problem with private entities, doing work on our flood  
3 system. That's the difference versus federal or state  
4 action.

5 MR. SHAPIRO: All right. President Carter, if I  
6 could clarify.

7 Of course, we're not a private entity. We are a  
8 public agency. We are joint powers authority of a  
9 reclamation district of the county. And I just want to  
10 make sure, everyone understands, Three Rivers has not  
11 backed off of a 200-year commitment. FEMA does not  
12 provide a 200-year certification. They just don't. They  
13 provide a 100-year certification. We are obtaining  
14 100-year certification. We are building a 200-year  
15 project.

16 PRESIDENT CARTER: Any further questions?

17 MEMBER BURROUGHS: I have -- we've heard comment  
18 that this -- part of this problem has just been brought to  
19 staff's attention and that there is going to be an  
20 investigation. I would -- I would like to know when we  
21 plan on having a report back from our staff on these  
22 issues of false accusations and the work going on without  
23 permits.

24 CHIEF ENGINEER BRADLEY: Are you referring to the  
25 detention basin they are constructing? Yeah, I would

1 expect to have a report for you next month. I will be  
2 coordinating with the Corps. They are also looking into  
3 this issue. I think, for the same reasons we are, there  
4 is an excavation fairly close to the levee. But it's not  
5 very deep; it may not affect anything. And the depth,  
6 location, how far it is, we'll take a look at all of that.

7 MEMBER BURROUGHS: I would also like -- I don't  
8 know if you have any other speaker cards. Do you?

9 PRESIDENT CARTER: We do.

10 MEMBER BURROUGHS: Okay. I would wait until after  
11 they have spoken.

12 PRESIDENT CARTER: Very good. Mr. Schrader?

13 MR. SCHRADER: My name is Don Schrader. I'm on  
14 the Yuba County Board of Supervisors. I have been on this  
15 Board for 11 years.

16 Just a little bit of background, I lived through  
17 the '55 flood, the '86 flood, the '97 flood. I took  
18 office the day after the levee broke in 1997, in my  
19 district. Yuba County Board of Supervisors is very, very,  
20 very committed to getting what we promised this Board, and  
21 that's 200-year level protection.

22 I'm not going to dignify some of the responses  
23 that have come before this Board today, because I think  
24 they are an insult to this Board, they are an insult to  
25 DWR, they are an insult to the Corps, and they are an

1 insult to Yuba County and Three Rivers.

2 This project is not taking place in a vacuum. If  
3 you go out when these -- when these people are working on  
4 levees, there's DWR vehicles there, there's Corps  
5 inspectors there. These levees are constantly -- these  
6 projects are constantly being inspected by your staff, by  
7 DWR staff, and by Corps staff.

8 So to think this is being done somehow in a vacuum  
9 and we're trying to cover things up is an insult to me, an  
10 insult to the county, and it should be an insult to this  
11 Board. There is nothing being attempted to being covered  
12 up.

13 We are doing everything in our power to protect  
14 the people in that area. We spent \$133 million so far to  
15 protect not only the people in Plumas Lake, but also the  
16 people who have existed in this floodplain for many years.  
17 The people who have lived there for years haven't had to  
18 spend a dime for this protection. We're doing everything  
19 humanly possible.

20 There was a statement made that we were -- we were  
21 doing cosmetic fixes on the levee. We're not doing  
22 cosmetic fixes. We're trying to fix the levees to Corps,  
23 DWR, and Rec Board standards. And to think anything else  
24 and otherwise is, to me, an insult to all of us.

25 If there's question with -- with the work that's

1    been done, the people who have stood before you today are  
2    professional engineers. They put their stamp on those  
3    documents. They put their life on the line, their  
4    livelihood on the line, to certify those documents.

5           Thank you. If there's any questions, I would be  
6    glad to answer them for you.

7           PRESIDENT CARTER: Any questions for Mr. Schrader?

8           Thank you very much.

9           Okay. If there's nothing else, let's move on.

10          MR. ARCHER: Could I rebut one more? If they  
11    don't like to hear it --

12          PRESIDENT CARTER: Mr. Archer, I will give you  
13    three minutes, and that will be the end of it.

14          MR. ARCHER: Thank you.

15          Like I say, if you don't want to hear it, you can  
16    leave. That's the way you tell me in your Board meetings.

17          It was stated a moment ago, that there was no time  
18    limit to start or finish. Under Yuba River Levee Repair  
19    Project, Phase 4, Reclamation Board Encroachment Permit  
20    Application, June of 2006, Ward Rogers, whatever that is,  
21    the reach B that we just -- the question was made on, I  
22    believe, should start August 1st and end August 30th.  
23    Now, that is a 30-day program. That's the levee part,  
24    there. They put this in front of you people. You didn't  
25    tell them to start August 1st or August 30th. They said,

1 "We'll start August 1st, August 30th."

2 Now, the reason we read from written things is  
3 they are written so that we can have evidence later, from  
4 words that are said, like were spoke here earlier.  
5 Everything I have given you people, there's evidence.  
6 It's written evidence.

7 That's all I have to say. That shows a falsehood  
8 right there. He stood here and told you there was none.  
9 And I just showed you, there is.

10 PRESIDENT CARTER: Thank you.

11 MEMBER BURROUGHS: Mr. President. I would like to  
12 ask legal counsel to comment on jurisdiction and any other  
13 comments they wish to add to this discussion.

14 PRESIDENT CARTER: All right.

15 LEGAL COUNSEL MORGAN: The question came up with  
16 regard to any kind of a pit being done beyond the levee or  
17 the toe of the levee or the normal jurisdiction boundaries  
18 of the Board.

19 Mr. Hess from the Corps described the federal law  
20 that gave the Corps of Engineers jurisdiction over  
21 everything, anywhere, that was going to have an effect on  
22 their plan of flood control.

23 The Water Code provides parallel authority under  
24 state law for the Reclamation Board, for anything that  
25 might have an impact on the state's plan of flood control,

1 8710. It's very broad, very sweeping language.

2 And the problem with it is, as Mr. Hodgkins  
3 alluded to earlier, is sort of a passive power of the  
4 Board. There's no automatic trigger for that. And that's  
5 why we kind of rely on the reclamation districts, who are  
6 on site, to observe something going on.

7 I presume it's sort of a normal practice that the  
8 Board staff, the chief engineer, and the general manager  
9 have, for becoming alerted to these problems through the  
10 state's inspectors or through the reclamation districts  
11 providing that information, and then sending letters  
12 indicating that something has to happen.

13 But there's no question that under state law,  
14 under 8710 of the Water Code, the Board has jurisdiction  
15 over any works of excavation on the land side of the levee  
16 if it's going to have some adverse impact on the levee  
17 itself.

18 PRESIDENT CARTER: Thank you.

19 MR. ARCHER: Mr. President, in relation to that --

20 PRESIDENT CARTER: Mr. Archer, Mr. Archer, this  
21 issue is not done yet. But we'll be discussing it in  
22 future meetings. But we really need to move on at this  
23 point. I appreciate your coming.

24 MR. ARCHER: It's just a short one, sir.

25 PRESIDENT CARTER: No, I'm sorry. But we are

1 done. Thank you. We need to move on.

2 There's nothing on Item 9. Item 10 is being moved  
3 to be heard after Item 16. So we will move on to Item 11,  
4 which is Reconsideration of the General Delegation  
5 Authority, Resolution No. 0608.

6 Mr. Morgan?

7 LEGAL COUNSEL MORGAN: Good morning.

8 Lorraine will be handing out copies of the  
9 Resolution 06-08 that was adopted by the Board last year,  
10 in April.

11 This resolution was adopted to modify the  
12 delegation authority to the general manager, requested by  
13 the Board earlier on during his tenure, to reduce some of  
14 the delegational authority that previously had been  
15 granted to the general manager.

16 At the 11th hour, the Department of Water  
17 Resources have been tasked to implement a number of  
18 emergency measures requested, and the Board then  
19 considered it and adopted it, the modifications to the  
20 resolution, as is included there in Item No. 4, saying,  
21 "The general manager shall be authorized to issue all  
22 projects, approve all projects, and exercise any other  
23 authority of the Board in furtherance of any work  
24 undertaken by the State in response to a declaration of a  
25 state of emergency by the governor, pursuant to the



1 authority of the California Emergency Services Act where  
2 the delay necessitated by bringing the matter before the  
3 Board would interfere with the timely completion of  
4 emergency work."

5 In fact, this seems like a good idea, generally,  
6 with or without a current state of emergency, as there is,  
7 because you are not going to have time when an emergency  
8 is here, to go back and adopt this resolution. So having  
9 this on paper is a good idea.

10 There was a lot of discussion about this at a  
11 meeting. And I think the critical word here is "work";  
12 what constitutes "work" that is going to be done by the  
13 Department, that should be authorized by the general  
14 manager, under this delegation authority, as opposed to  
15 being brought back to the Board.

16 Subsequent to the adoption of this resolution, of  
17 course the three triggers are that the work must be --  
18 work is being done by the state; can't be work is being  
19 done by Corps; can't be work is being done by a  
20 reclamation district, has to be work is being undertaken  
21 by the state. It has to be work under -- that's in  
22 response to the declaration of the state of emergency.  
23 And it has to be work that can't wait: "The delay  
24 necessitated by bringing the matter before the Board would  
25 interfere with the timely completion of the work."

1           We advised the general manager, and before  
2   Mr. Punia, acting General Manager Dan Fua, to obtain from  
3   the Department, a memo outlining that all these three  
4   triggers have been satisfied and giving the reasons  
5   therefore, as opposed to just a mere recitation of saying,  
6   "Yes, in fact, they have it met." We have to justify  
7   this.

8           I don't know -- I haven't actually reviewed all  
9   the memos that have come into the general manager, but I  
10  know, based on the facts that have been ordinarily  
11  presented, that it satisfies these tests. And my advice  
12  to the Board's and now permanent general manager has been,  
13  we accept the characterization of things by the  
14  Department, as the Department presents it to us. We're  
15  not open to go and do our own independent investigation  
16  and decide we don't agree with their characterization.

17          They are the ones that the governor requested to  
18  do this emergency work, not the Board. And all agencies,  
19  including the Board, are asked to cooperate.

20          Nevertheless there is -- there was a matter of  
21  concern to the Board about the scope of work that was  
22  going to be done under the emergency declaration. And I  
23  think there is a sense by, perhaps some of the Board  
24  members as well as some of the staff members, that the  
25  scope of requests for authorizations by the general

1 manager may or may not be entirely consistent with what  
2 the Board understood. Unfortunately, as I advised the  
3 Board at the time they approved this, this is more or less  
4 a gift. You know, you don't get to take it back, which is  
5 why it's now here on the Board's agenda as an action item.

6 Staff doesn't have a particular recommendation at  
7 this point. This is an opportunity for the Board to  
8 discuss this. It has the opportunity, since it is an  
9 action item, to rewrite this resolution right here, now,  
10 at this meeting, if it wants to. It also has the option  
11 to do absolutely nothing, if it's satisfied that the work  
12 has exceeded the scope of what it wants done. But I know  
13 there have been discussions at numerous meetings when --  
14 this, of course, being an aberration, where absolutely was  
15 nothing done in the last month, requiring Board approval  
16 under the emergency declaration, but a number of times  
17 when there was some question about, "Couldn't that have  
18 waited?" And of course, there's really not much that the  
19 Board could do after the fact. So this is a chance to  
20 discuss this and decide whether the Board wants to direct  
21 staff to look into providing narrower language, more  
22 focused language, whether the Board's satisfied with the  
23 way things have been going on, and advise staff of how you  
24 want to proceed.

25 PRESIDENT CARTER: So are there any questions with

1 regard to this particular Item 4, on the delegation of  
2 general manager, with regard to the three riggers -- the  
3 triggers, when it takes into effect? Any of the  
4 technicalities in terms of how the process works?

5 MEMBER RIE: I don't have a question on that  
6 particular item. But I do have a question on -- and maybe  
7 you don't know, Scott. Maybe Rod Mayer could answer this:  
8 Have we received any complaints from the public regarding  
9 these emergency repairs? Is there anybody unhappy?

10 MR. MAYER: Good morning. I'm Rod Mayer, chief  
11 division of Flood Management.

12 I am aware of a complaint about work done up on  
13 Butte Creek, that perhaps the State should have explored a  
14 setback levee alternative more thoroughly and implemented  
15 that, rather than the bank erosion repairs that were done.  
16 This was done under the original 33 critical sites headed  
17 by Don Kurasaka before the program was turned over to the  
18 Division of Flood Management.

19 And I think there were very good reasons for why  
20 that work was done the way it was. And that information  
21 was provided to the entity that registered the complaint.

22 No other specific complaints come to mind,  
23 although perhaps I'm not thinking of all the situations.

24 MEMBER RIE: Do you think, if this Board had a  
25 public hearing regarding that particular emergency repair,

1 the outcome would have been any different?

2 MR. MAYER: No, I think DWR had very good reasons  
3 for what it did.

4 SECRETARY DOHERTY: Was that at river mile 182?

5 MR. MAYER: No. River mile 182 is on the  
6 Sacramento River.

7 SECRETARY DOHERTY: Oh, okay. Oh, all right.

8 MR. MAYER: River mile 182 is one other one. I  
9 don't know if there's necessarily a complaint. But I do  
10 know there's been some interest in that one; not so much  
11 the original site, but the expansion of the site. A few  
12 thousand feet were added to the downstream end of the  
13 site. And I understand that there's been interest in why  
14 that was necessary and what are we doing there.

15 And I believe it was the Sacramento River  
16 Preservation Trust that wrote a letter regarding that.  
17 That's another one that possibly is a complaint.

18 PRESIDENT CARTER: All right. The -- one of the  
19 things that I noticed, under the original -- even before  
20 33, it was 26, or something like that, or 25 sites. The  
21 process by which the Department approached those projects,  
22 under the original emergency declaration was a very open  
23 process.

24 They had a number of briefing meetings in a  
25 variety of locations around the state. And to discuss --

1 to discuss the entire program and also the specific sites  
2 within those areas, the public was given a chance to  
3 become well-informed; lots of documentation.

4 With the increase in scope of the emergency  
5 declaration, from 33 to an additional 70 sites, or  
6 whatever it is, at this point, that process hasn't been  
7 followed.

8 The public has not been -- or the Department has  
9 not made the effort to -- a similar effort to inform the  
10 public of what's going on with all the emergency repairs  
11 and the specific repairs at each site, either in general  
12 or regionally. What the public hears is what comes out of  
13 the press, basically.

14 That has been a concern of this Board's. And I  
15 was wondering what -- how the Department felt about that.  
16 This Board is essentially the public's avenue for -- for  
17 commenting on flood control, flood management issues.

18 Mr. Mayer, what's the Department's position on  
19 that? Does the Department have any plans to -- with the  
20 expanded scope -- and we're not talking about a small  
21 expansion; we're talking about a 200 percent increase.

22 MR. MAYER: Absolutely. It's been a very large  
23 expansion in scope with very limited resources to deal  
24 with these issues. And so it is quite possible.

25 And I don't know the details about -- but your

1 comment is correct. That we have reduced the number of  
2 public meetings. They haven't been eliminated though. I,  
3 for instance, am very aware of a public meeting down in  
4 the Firebaugh area before the Department went down and did  
5 emergency repairs in that area.

6 I thought that that was going to be our practice  
7 in general and that wasn't an aberration. But I don't  
8 know the details about what meetings have occurred when  
9 and what the schedules are, for public dissemination of  
10 the work we're doing.

11 I do think the Board has a significant role in  
12 hearing these issues. The Board has requested that DWR  
13 provide a briefing at every meeting. And we have been  
14 doing that. It's on the agenda. It's part of the report  
15 of the Department of Water Resources.

16 I haven't heard of any complaints other than the  
17 ones I just mentioned about the lack of public comment.  
18 We can make sure that we're engaging the public in a more  
19 vigorous fashion than what has been occurring. And we  
20 would be glad to do that. This is the first I've heard  
21 it's an issue, though.

22 MEMBER BURROUGHS: That would be great.

23 VICE PRESIDENT HODGKINS: You know, I'm the  
24 engineer that falls into the category that was earlier  
25 described by the attorneys as wanting to get something

1 done. And I'm really believing, sometimes it's easier to  
2 beg for forgiveness than to get permission. It's how  
3 things get done.

4 I think that two complaints on 170 million-dollar  
5 program is an exceptionally good record when you are  
6 dealing with something as controversial as bank  
7 protection, which is what most of that work has been. To  
8 not have the environmental groups really upset -- and I  
9 guess the Fish and Wildlife Service and the rest of the  
10 federal corps over there probably come directly to you  
11 with their complaints.

12 But I think the Department has been managing the  
13 work pretty well. And while I would encourage you not to  
14 cut down on the amount of public outreach -- because I  
15 think it was effective -- and to keep that in mind, you  
16 know, maybe what the Board should do is to separate the  
17 agenda, but to keep it brief like it has been, so that  
18 it's on the agenda. So anybody who keeps on the agenda  
19 has the opportunity to come in here; a status report on  
20 emergency work being done by the Department of Water  
21 Resources.

22 MR. MAYER: I think that would be perfectly  
23 appropriate.

24 VICE PRESIDENT HODGKINS: Would that help? And  
25 that gives people, who look at the agenda at least -- know



1 that they can come here and get us to either address or  
2 get the Department to address their issues. But I don't  
3 want to make the process any more difficult than it has  
4 been, because I think it's worked very, very well. I'm  
5 amazed.

6 PRESIDENT CARTER: I think it's a great idea. I  
7 think that to the extent that -- that we get specific  
8 briefings on what has happened, via the general manager's  
9 report on the emergency actions that have been taken by  
10 staff, to the extent that you know a month in advance or  
11 in advance of the work and you can include that, as  
12 opposed to after the fact, that would be desirable, I  
13 think, from our perspective and the public's perspective,  
14 when you give your monthly report.

15 And I think it's a good idea to really have a  
16 separate Item A under the Department of Water Resources  
17 monthly report, specifically citing emergency repair work.

18 MR. MAYER: Okay. Certainly. I didn't follow the  
19 first comment about a month in advance, though. Exactly  
20 what would you be looking for?

21 PRESIDENT CARTER: Well, what we get now, in  
22 addition to what you already give us, in terms of actions  
23 taken, or what kind of work the Department has been  
24 working on in the prior 30 days, or since the last Board  
25 meeting, we get the general manager's report that says

1     this: That they signed X, Y, Z permits for emergency  
2     repairs at these particular sites.

3             It's all after the fact. To the extent that you  
4     can tell us what's coming up, that would be helpful --

5             MR. MAYER: Okay.

6             PRESIDENT CARTER: -- in that, rather than what  
7     has happened. We would like to know what has happened as  
8     well but we already get that. It would be more helpful to  
9     the public and the Board if we -- if you -- to the extent  
10    that you know what is ahead.

11            MR. MAYER: Okay. I think we can do that.

12            PRESIDENT CARTER: Okay. The other question I  
13    have is: I would like to get staff's perspective on how  
14    the process is working; have they been comfortable with  
15    it? Have there been specific examples or instances where  
16    staff has been uncomfortable in signing permits for -- or  
17    approving actions for the emergency repairs?

18            And that's all staff. So take turns.

19            Steve?

20            CHIEF ENGINEER BRADLEY: I guess I will go first.

21            Most of these are standard work. They are not  
22    required variances. Most of them wouldn't have come to  
23    the Board, anyway, as a permit issue, because they aren't  
24    really requiring variances, other than if you would have  
25    expressed an interest and wanted to approve all of those.

1 But most of the work that's been done would not have come  
2 to the Board. There was an issue with some mitigation of  
3 elderberries that would have probably come to the Board,  
4 because of your interest in that and your direction to  
5 staff, that you wanted to hear all permits that had  
6 elderberries involved.

7 But other than that, I believe most of this stuff  
8 is just moving straight forward. It's all -- all the  
9 erosion repairs, generally, are very similar. You know,  
10 it's just rock on the bank, basically, with some  
11 environmental enhancements included in that. And from my  
12 point of view, it's -- they are moving actually fairly  
13 smoothly.

14 PRESIDENT CARTER: And each of these kind of  
15 satisfies the test of the three triggers?

16 CHIEF ENGINEER BRADLEY: You would have to ask Jay  
17 that.

18 I have not reviewed them. From my point on that,  
19 I look at the engineering.

20 GENERAL MANAGER PUNIA: Jay Punia, general  
21 manager.

22 Yes, I agree with Steve. Most of the work coming  
23 to the general manager is routine work. And we are making  
24 sure that it meets those three criteria laid out by the  
25 legal and the board, so it meets that standard.

1           And I can assure to the Board, if there's a  
2   controversial item, I will get in touch with the Board.  
3   And if needed, I may ask for a special meeting. So I'm  
4   approving most of the routine stuff, transferring the  
5   right-of-way and transferring money to the U.S. Army Corps  
6   of Engineers. And those items, in my judgment, and from  
7   my past experience of routine items, to keep the projects  
8   going. And I appreciate that the Board has given me the  
9   delegation to keep the projects on schedule.

10           PRESIDENT CARTER: Any other members of staff?  
11           Dan?

12           SUPERVISING ENGINEER FUA: I agree with both with  
13   Steve and Jay that most of the approvals that I did, while  
14   I was acting general manager, was mostly routine, except  
15   for that one elderberry transplanting request by the  
16   Department.

17           I did not take that action lightly. I did ask a  
18   lot of people, including our legal counsel, and other --  
19   and Steve Bradley and other -- all of our staff, ask their  
20   opinions on whether this action -- whether I could take  
21   this action and not wait for a Board meeting.

22           I was a little uncomfortable at first signing that  
23   variance to the permit. But as I said, I've got a lot of  
24   staff to help me out and make that decision. And as I  
25   said, I was comfortable after asking staff, you know,

1 their opinions of whether I would sign this or wait for  
2 the Board to act on it.

3 PRESIDENT CARTER: Just in case the rest of the  
4 Board members don't know, Mr. Fua did consult me on that  
5 particular one as well. He did call and we discussed it,  
6 considered the options.

7 Mr. Morgan, do you have any comments?

8 LEGAL COUNSEL MORGAN: Just that, you know, I know  
9 that a number of -- the vast majority of these involve  
10 actual work. There is a permit to go out and to do  
11 something. As the staff says, a lot of these would not  
12 have required any special delegation anyway. They were  
13 within the scope of the regulations. And the general  
14 manager already has authority to issue permits in those  
15 cases.

16 I guess from a legal perspective, the only concern  
17 I have is when I hear about things that are -- you know,  
18 contracts being signed unrelated to work, but authorizing  
19 payment, for instance, that would normally be brought to  
20 the Board and are being brought to the general manager,  
21 because staff ran out of time, as opposed to it's actually  
22 going to get work.

23 So those occurrences have been few and far  
24 between. I want to stress that. And so from a -- from a  
25 broad perspective, this has not been a big problem, simply

1 because there haven't been that many instance where the  
2 general manager's authority is required specifically for  
3 this, and it wouldn't have existed otherwise. And it's  
4 good to have this on -- as I said, it's good to have this  
5 on the books for future emergencies, down the road, that  
6 we don't predict.

7 But at the same time, I know the Board had had  
8 this original concern about granting too broad a scope of  
9 authority. I know that individual members had questioned  
10 certain activities or certain actions of the general  
11 manager in the past.

12 I want to make sure that staff is not going too  
13 far afield. I'm also concerned, as I said, from a legal  
14 perspective, that this is a body, as President Carter  
15 said, that has an oversight role. And you don't want to  
16 delegate all your authority away, because then you are  
17 giving up too much. You need to have public meetings and  
18 hear some of the stuff. It's one thing, when you are  
19 actually taking action on them, and we need to be careful  
20 that we don't go too far and stretch that delegation too  
21 far.

22 So really the question is: Is there any -- any  
23 way of tweaking the language to make it clear on what  
24 authority is being delegated? Are you satisfied with the  
25 way it's been implemented? And what would you like to do,

1 going forward?

2 PRESIDENT CARTER: That's -- that's the issue  
3 before us.

4 Just one comment: The -- as I stated before, the  
5 emergency declaration has expanded in scope dramatically.  
6 I would hate for the state to begin to use this process to  
7 do routine regular work. I think it's been great for the  
8 permitting process from the standpoint of getting a lot of  
9 work done quickly.

10 However, I would rather have us fix the permitting  
11 process and follow the normal public open process on all  
12 this work that we have, as opposed to trying to figure out  
13 a way to put it into the emergency bucket, so that it can  
14 be fast-tracked through the normal processes. So not to  
15 imply that that is being done, but it's -- it's a slippery  
16 slope if we head down that way.

17 So personally, if the process is -- and the  
18 existing delegation is working well for staff at this  
19 point -- they are not concerned, they haven't been  
20 uncomfortable -- I don't see any reason to change it  
21 unless another Board member has -- has some reason to do  
22 that.

23 But I think the -- just doing the process check is  
24 worthwhile.

25 MEMBER BURROUGHS: I would like to say, I concur

1 with what your statement just said.

2 But I would like to add one thing, that hasn't  
3 been brought up by staff, which I have heard, is that is  
4 that there are months when the load of information or  
5 paperwork that's required to review, we don't have enough  
6 time. And we need additional staff to be able to handle  
7 the influx now, with all the new work that's being done.

8 And I don't know how to address the issue, that if  
9 we have the emergency and it falls under "emergency,"  
10 giving our staff and making sure they have enough time and  
11 resources to review the information that's coming through.

12 PRESIDENT CARTER: Okay. We -- perhaps General  
13 Manager Punia can address the staffing issues and some of  
14 the BCPs that are coming ahead of us, as part of his  
15 general manager's report, a little later on in the  
16 meeting. But there are some things in the works to help  
17 alleviate some of that, probably not solve it. But  
18 hopefully, help is on the way.

19 And certainly, Mr. Mayer has some information with  
20 regard to that as well.

21 So later --

22 MEMBER RIE: One quick question for Scott.

23 I misplaced my copy. But I was wondering, does  
24 the delegation of the authority for the emergency work  
25 define what "emergency work" is?



1           LEGAL COUNSEL MORGAN: It says, "Any work  
2 undertaken by the State in response to a declaration of a  
3 state of emergency by the governor." So it's any --  
4 whatever the state is doing and however the state defines  
5 that work.

6           MEMBER RIE: Okay. Because, perhaps, maybe -- I  
7 don't know what everybody else feels about this, but maybe  
8 we can narrow in on what the definition is.

9           LEGAL COUNSEL MORGAN: That's the key definition.  
10 What work is, if it's ancillary contracts or agreements  
11 for cost-sharing or something like that. That's one  
12 thing.

13           I think -- I assume from the transcripts, the  
14 discussion back in the meeting, when this issue was taken  
15 up by the Board, the understanding was that it was  
16 physical work going out and putting a rock on a levee or  
17 filling a hole or whatever. But it's -- it's not narrowly  
18 defined.

19           MEMBER RIE: Okay. Because in the Water Code,  
20 8715, "emergency work" is defined. And I was wondering if  
21 you could take a look at that section of the Code and make  
22 sure that the delegation of authority is consistent with  
23 the Water Code's definition of "emergency work."

24           LEGAL COUNSEL MORGAN: It does not refer to it.  
25 And we have not relied on that. This is just any work,

1 period. And so for it to -- for it to relate to that, we  
2 would have to specifically relate this resolution to that  
3 section of the Water Code. It's safe to say, emergency  
4 work would be defined by that section of the Water Code.  
5 That might be a limit. And in this case, I suspect it  
6 would be.

7 MEMBER RIE: Okay. So do you think it would help  
8 to put more of a definition in the resolution and not be  
9 so broad?

10 LEGAL COUNSEL MORGAN: I don't know how many more  
11 situations like the current one we're going to encounter.  
12 99 times out of a hundred, any kind of emergency work is  
13 going to be the sort that you heard about this morning,  
14 where they dump boulders into a levee. And then to the  
15 extent the Board's consulted at all, they don't wait for a  
16 permit.

17 But definitely, if there's going to be a lot more  
18 work done under this or any similar declaration of  
19 emergency, to make sure that the -- I don't want the Board  
20 not to be reviewing things they are not to be reviewing or  
21 to just use resolution as a pass-through so it never --  
22 nothing ever has to come before the Board.

23 That would be the phrase we would want to define  
24 or narrow in some way: Be specific about what it is, you,  
25 the Board, anticipate that means. What kind of work that

1 is being done by the Department or by the state in  
2 general qualifies for this exemption. And understand, the  
3 Department may have something to say about this and  
4 suggest that a lot of the things that may seem tangential  
5 at first -- you know, how complex these agreements are and  
6 how complex these deals are and projects are, everything  
7 seems upon getting all the regulatory, you know,  
8 compliance in line. And so something gets taken out, the  
9 whole thing could fall apart.

10 So from their perspective, they may view all these  
11 elements as one of those little games of sticks, where you  
12 are taking one out and hope it doesn't collapse; whereas,  
13 from Board staff perspective, we may view it as not  
14 specifically related to going out and putting rock on the  
15 ground or fixing up a levee.

16 So -- but yeah, I mean, that's the place to narrow  
17 it, is in the definition of "work" or explaining more in  
18 terms of what the Board has in mind, what the scope of  
19 that delegation is.

20 MEMBER BURROUGHS: Do you have some specific  
21 language that you would recommend?

22 LEGAL COUNSEL MORGAN: Not at this time. This was  
23 just brought up, based on a request from the last meeting.  
24 It was put an as action item without any staff  
25 recommendations at this time. We wanted to find out what

1 the Board wanted to do. If there was something that the  
2 Board wanted to recommend at this meeting, we could  
3 implement it immediately. But this is really an  
4 opportunity for the Board to weigh in, direct staff as how  
5 you would like us to go, what you would like us to do.

6 VICE PRESIDENT HODGKINS: I think we have to think  
7 about the fact that we do have limited staff. It's almost  
8 like we are searching for a problem here that we can then  
9 try and correct. And I think that putting this on the  
10 agenda is great, because it helps staff to understand, if  
11 this becomes a problem and you start to get uncomfortable,  
12 you ought to bring that to the attention of the Board.  
13 But as long as it's working all right, and in my view, it  
14 is, and I thought -- you know, I know these things get  
15 challenging sometimes.

16 And I think the Board has to remember that it is a  
17 broad delegation. We can't get after staff after the  
18 fact, for acting within the delegation, but we can  
19 encourage them. If it becomes a problem, say something.  
20 But in the meantime, I don't think we have to look for a  
21 problem here, because we don't really have one, I don't  
22 think. So that's what my message is.

23 PRESIDENT CARTER: Okay. So are there any members  
24 of the Board that feel that we need to change the  
25 delegation at this point?

1           Okay. Then we will just leave the existing  
2   delegation as it is, as stated in the Resolution 0608.

3           And if there comes a time when -- when that  
4   particular resolution and the process is not working, we  
5   will address it. But we do -- as Butch stated, I do  
6   encourage staff -- any member of the staff, if they are  
7   uncomfortable, to bring it to the attention of the Board.

8           Thank you very much.

9           LEGAL COUNSEL MORGAN: Thank you. Okay. okay. At  
10 this time, we'll take a lunch recess.

11           We will be reconvening here at 1:15, please.  
12 Thank you.

13           (Thereupon a break was taken in  
14   proceedings.)

15           PRESIDENT CARTER: Good afternoon, ladies and  
16 gentlemen. If we could go ahead and take your seats, we  
17 will go ahead and continue our meeting for the State  
18 Reclamation Board.

19           With the indulgence of the Sacramento Area Flood  
20 Control Agency, I would like to make a slight change in  
21 the agenda due to a scheduling conflict, and move Item 18,  
22 Discovery Bay staff report to be heard before Item 16.

23           Any objections from the Board on that?

24           SECRETARY DOHERTY: No.

25           PRESIDENT CARTER: Okay. Is that going to

1 inconvenience SAFCA in anyway?

2 UNIDENTIFIED MALE: Not unacceptably so.

3 PRESIDENT CARTER: Appreciate your patience.

4 Thank you.

5 So we will go ahead and start with Item 18,

6 Discovery Bay.

7 Mr. Bradley and Mr. Morgan?

8 Is it too sunny out there, for you, Steve?

9 CHIEF ENGINEER BRADLEY: I went over and certified  
10 the record for the NRDC lawsuit. It didn't seem like it  
11 was that bright out there, but I guess the glasses were  
12 out there long enough to change color.

13 PRESIDENT CARTER: For those of you who can't see,  
14 he's wearing sunglasses.

15 We have a little bit of dead time. Just want to  
16 remind people, members of the public, if you do want to  
17 address the Board on any agenda item, please do so with  
18 these cards so we know to recognize you. And the time for  
19 public comment has passed, but there will be another  
20 opportunity next month, for that.

21 CHIEF ENGINEER BRADLEY: Well, I'm just going to  
22 set the stage. So I guess we can go ahead with what  
23 Scott's is, because mine's just graphics.

24 LEGAL COUNSEL MORGAN: You might be able to use  
25 some of the graphics out of mine, to just kind of explain

1 things.

2 (Thereupon an overhead presentation was  
3 presented as follows.)

4 CHIEF ENGINEER BRADLEY: The yellow boundary here  
5 shows the district boundary for Reclamation District 800.  
6 The upper left corner here, the northwest corner, this is  
7 Discovery Bay. The lower portion of this, in this area,  
8 is the golf course. Mr. Tilton's home is right over in  
9 this area, on this arm, within Discovery Bay.

10 --o0o--

11 CHIEF ENGINEER BRADLEY: This is a kind of blow-up  
12 of that. Again, the district boundary. Golf course area.  
13 The arm where Mr. Tilton's house is about right here.  
14 It's a duplex. It would be the fourth duplex in from  
15 the -- along the edge of the arm.

16 Couple of things: The original -- Well, this is  
17 the boundary as it is now. Originally, there was a levee  
18 that came and followed -- followed the yellow boundary  
19 right to about here. And then you can kind of see the  
20 remnants of it. It went down here, over to here, and then  
21 went down to about this point here, from this point. So  
22 that's where the original boundary was.

23 --o0o--

24 CHIEF ENGINEER BRADLEY: So the new boundary,  
25 again, the dashed line here is the district boundary. But

1 it's not the levee now. The original levee followed the  
2 top part of this, all the way around to here, and then it  
3 went down to here, over to here, then back to -- in this  
4 area somewhere.

5           What they did, when they created Discovery Bay and  
6 they wanted waterside access to the Delta, they pushed  
7 these levees in so that these properties, outside of the  
8 yellow boundary, have access to the Delta. Interior,  
9 there's a lake, but they do not have access to the Delta.  
10 There's water there. It's an internal lake, but not  
11 access to the Delta.

12           Mr. Tilton complained to the district at one time  
13 that he had some slumping in his property. Their fix was  
14 to come in and they put over about -- about two lot  
15 worth -- lots -- in length in the water side. They put in  
16 a sheet piling wall to stop the slumping. That's the  
17 project that he says is not working.

18           The Board really doesn't have any -- it's not  
19 something we would normally get permits on. It's not  
20 something we would review. It's a private project; it's  
21 all private.

22           There is a levee on the right side of the  
23 district, starting here, and going all the way down to  
24 Clifton Court Forebay that has received subventions money  
25 from the Board. But this part of their levee system does



1 not receive subventions money.

2 We wouldn't normally regulate it. It's private  
3 development; private designs. I wouldn't review this and  
4 approve or disprove the design. From my point of  
5 interest, there's no engineering issues for me to be  
6 involved in, on this.

7 The closest project levees, I measured them on my  
8 thing. I had a layout that shows it. To the north is the  
9 Sacramento River, near Sherman Island. That's 13 miles.  
10 To the east, you are going over to the Stockton area,  
11 around Rough and Ready Island. That's about 13 miles.

12 To the southeast is Paradise Cut. That's about 12  
13 miles. So this -- this projected is located 12 to 13  
14 miles from any of the other federal project levees.

15 I think that kind of sets the stage. I had a  
16 little bit more, but without some of the graphics, it  
17 doesn't really mean much.

18 Do you have an idea of where you are here and what  
19 we are talking about? Or do you have any questions for  
20 me, before Scott addresses the legal issues?

21 VICE PRESIDENT HODGKINS: Well, I'm still not sure  
22 what's germane here. But you said they changed the  
23 boundaries, I assume, of the reclamation district?

24 CHIEF ENGINEER BRADLEY: No, not of the district,  
25 but of -- where the levees were.

1 SECRETARY DOHERTY: So they are private levees.

2 CHIEF ENGINEER BRADLEY: Yeah, they are private  
3 levees. They belong to the RD, I presume. I don't know  
4 if they have fee ownership. But they are not federal  
5 project levees that we would have -- provide assurances  
6 for.

7 VICE PRESIDENT HODGKINS: Okay. And does that  
8 mean then -- I assume all of these are -- all the homes  
9 are constructed on high ground that was made by filling.

10 CHIEF ENGINEER BRADLEY: Right. What they did  
11 is -- I presume, but I didn't really check this out. They  
12 excavated to make the waterside and build up these  
13 peninsulas, and these peninsulas are all 1 foot above the  
14 design flood plain for FEMA reasons. They are 1 foot  
15 above that.

16 VICE PRESIDENT HODGKINS: Okay.

17 CHIEF ENGINEER BRADLEY: So all these areas are  
18 above the floodplain even though they are in the water.

19 VICE PRESIDENT HODGKINS: Okay.

20 PRESIDENT CARTER: Any further questions for Mr.  
21 Bradley?

22 Okay. Thank you, Steve.

23 --o0o--

24 LEGAL COUNSEL MORGAN: I will just start with a  
25 slide. Just to put you in the area -- I think you all

1 know where Discovery Bay is, but to put it in perspective  
2 a little bit, and also to go over, kind of, what I will be  
3 talking about a little bit today.

4 First of all, we had the November meeting, when  
5 Mr. Tilton approached the Board. It was not the first  
6 time that Board staff had heard from Mr. Tilton. But it  
7 was the first time the Board and myself had heard from  
8 Mr. Tilton.

9 On November 29th, a couple weeks after that  
10 meeting, he had a petition for review that the superior  
11 court denied. So his case that he had -- the First  
12 District Court of Appeal, which rejected his claims,  
13 against the District, would -- he had appealed to the  
14 California Superior Court and that appeal was denied.

15 December 15th, came back to the Board and had a  
16 second meeting with the Board. I'll be talking a little  
17 bit about the issues that were raised at those meetings.

18 He also provided the Board with a letter at the  
19 December 15th meeting. I will talk a little bit about  
20 that as well.

21 And then on January 4th, Board staff went out to  
22 visit Discovery Island with Mr. Tilton and also with RD  
23 800 representatives. Again, just to put this in regional  
24 perspective, a satellite photo. You have Lodi and  
25 Stockton, the major cities on the east side of the valley

1 that you can see there. Some areas that we all know from  
2 other discussions. There's Stewart Tract, for instance,  
3 Bethel Island, up here, and Discovery Bay, and then  
4 Clifton Court Forebay down, right below it, as Steve  
5 mentioned.

6 --o0o--

7 LEGAL COUNSEL MORGAN: I zoom in on that area.  
8 Again, here are the district boundaries of RD 800 outlined  
9 in yellow. These are -- all these boundaries that you see  
10 up here are my tracing on an aerial photo. They are not  
11 precise engineering boundaries.

12 And I zoom in on this one, here, we have Discovery  
13 Bay and Mr. Tilton's property, more or less, where that  
14 arrow shows.

15 And as Steve said, there was a history of the  
16 development here that realigned the levee. This was RD  
17 800's decision. They never asked the Board for permission  
18 to do this. They never talked to the Board about it at  
19 all. They just went ahead and did it. These are private  
20 levees. And I will talk a little bit more about that.

21 I also want to mention that this diagram is not  
22 accurate. In fact, I didn't have the diagram that I saw  
23 when we were out there at the meeting. It showed exactly  
24 where the boundaries are. But when these levees were  
25 reconstructed they do, in fact -- the main levee, the

1 flood control levee, has little wings or spurs on it that  
2 come out, and it just happened to be about four houses  
3 down. And so this would look like a tree with all the  
4 branches cut off, with little stumps of branches coming  
5 out. It's not a straight line.

6 So in fact, Mr. Tilton's property, though, is one  
7 of those peninsulas. It actually rests on what is RD 800,  
8 the flood control levee.

9 So, again, we had --

10 --o0o--

11 LEGAL COUNSEL MORGAN: -- at the meeting in  
12 November, Mr. Tilton came to the Board and raised a number  
13 of issues and asked the Board to look into it. The Board  
14 promised to look into it. We were in the process of  
15 looking into it. We actually contacted RD 800. I went  
16 back and reread the case. This was a case that was handed  
17 down by the First District Court of Appeal -- or I should  
18 say published by the First District Court of Appeal in  
19 September of last year. And immediately I was -- my  
20 attention was drawn to it, because it's a flood case  
21 involving levees. And those are the sort of things that  
22 when they come out, we pay particular attention to.

23 My first cursory reading of it, though, didn't  
24 show that there was any particular interest for the  
25 Reclamation Board, the Department of Water Resources. It

1 is a procedural case.

2 I've handed out copies of the case to you; you can  
3 read it at your leisure.

4 But what you will see is that it's all really  
5 based on procedure. Procedure is not my long suit. In  
6 fact, I don't have a procedural pursuit at all. Sort of  
7 like a seersucker. You either read procedure or you  
8 don't.

9 This case is lettered "I" by procedure. And it's  
10 a very important thing. For example, statute of  
11 limitations, if you miss it by a day, you are out. It's a  
12 procedural issue, a technical issue. It doesn't really  
13 relate to whether or not you've been harmed or not. It  
14 relates to whether or not you met the statute of  
15 limitations.

16 And all the issues raised in the opinion relate to  
17 procedural issues. So it really didn't go to the  
18 substantive issues of where liability attaches if  
19 procedure is adequately followed. So I wasn't that  
20 interested in it.

21 I didn't look at it, again, until Mr. Tilton came  
22 forward. I got more interested in it. I talked to RD 800  
23 and the legal representatives, and they offered to take us  
24 on a trip out there, which we thought was a good idea. We  
25 had to set it up in time before the December 15th meeting,

1 when Mr. Tilton came back.

2 In the November meeting, Mr. Tilton raised a few  
3 issues regarding the court decision. He mentioned FEMA  
4 requirements for NFIP, the possible certification of  
5 Discovery Bay as being eligible for being exempt from the  
6 flood insurance requirements. RD 800's maintenance  
7 practices, RD 800's use of sheet piles along the levees  
8 and spending by the subvention program by RD 800 had cited  
9 risk at Discovery Bay. Looking over the transcript, those  
10 were the specific issues that were mentioned. But  
11 unfortunately, there was not anything really specific that  
12 we could get our hands on, in terms of what we were  
13 supposed to go after.

14 And after the December 15th meeting, Mr. Tilton  
15 didn't really raise particular new issues. As you recall,  
16 he was concerned that the Board had sort of a lax in its  
17 duty to investigate things. He reraised the issue of the  
18 Tilton RD 800 case and talked about the lack of the  
19 mandatory duty by agencies to maintain the federal  
20 standards.

21 His letter of December 15th is basically a  
22 transcript of what he said. And so it raises all the same  
23 issues in much the same way.

24 Subsequent to the December meeting, we were asked  
25 by the Board to go out and visit the site and see what's

1 going on. Although originally a couple Board members  
2 volunteered to go out there and meet with Mr. Tilton, my  
3 feeling was that until we knew that it was a Board issue,  
4 I really prefer that Board members not go on a trip like  
5 this.

6 And so staff went out instead to see what was  
7 going on. And you know, you never know what you are going  
8 to find. I mean it's entirely possible it's not going to  
9 raise an issue that needs to be dealt with, by the Board,  
10 but until that day comes, I think the Board's resources  
11 are best spent on things we have -- that we know is within  
12 our jurisdiction.

13 When we met with Mr. Tilton, the first thing that  
14 he expressed was a desire that whatever he wanted the  
15 Board to do, we get that in writing. We needed to know  
16 specifically what the problem was and what action we felt  
17 the Board ought to take to correct it.

18 We asked -- in fact before we went out there, I  
19 think General Manager Jay Punia asked that of  
20 Mr. Tilton -- he asked for a letter detailing those  
21 issues. We didn't receive it prior to our meeting in  
22 January. We reiterated that in our meeting in January, at  
23 the beginning of the meeting. That was about two weeks  
24 ago. That meeting involved Jay Punia, Steve Bradley, and  
25 myself.



1           At that meeting, Mr. Tilton alluded to some  
2 possible misappropriation or comingling of funds by RD 800  
3 and negligent work by RD 800.

4           But again, we specifically asked what it was that  
5 was done that was within the Board's jurisdiction; what  
6 related to project levees or whether there was a statutory  
7 basis.

8           And at the end of the meeting, we repeated our  
9 request, that we get specific complaints, something in  
10 writing that we know what it is the problem is; that it's  
11 something that we can -- we don't necessarily expect  
12 Mr. Tilton to know what our jurisdiction is or what we  
13 have authority over. But if we can get a really clear  
14 exposition of what it is that's wrong, we can determine  
15 whether or not its within our jurisdiction.

16           So far, nothing, so far as I can tell, has been  
17 raised by Mr. Tilton is related to this Board's authority.  
18 These are -- as Steve said, these are non-project levees.  
19 They are very far way from project levees. And the actual  
20 work that's being done out there, related to Mr. Tilton's  
21 property, isn't something that the Board ordinarily has  
22 any jurisdiction over or any interest in.

23           It's just something that the reclamation district  
24 itself would take on, upon itself. And those sort of  
25 things just don't come before the Board.

1           The question of subvention funds, again, this is  
2 something that the program has been mandated by both the  
3 voters and the state Legislature to provide subvention  
4 funds to Delta Maintenance District, primarily towards the  
5 benefit of the State Water Department, make sure that  
6 Delta Islands don't fail. Because if they do, they can  
7 virtually affect the ability of the state to provide  
8 drinking water to Southern Californians. And not so much  
9 as an issue of levee integrity for urban fill or anything  
10 like that.

11           But the subvention program does come through the  
12 Board for approval. And there was no indication, at the  
13 end of the work, that Tilton was complaining about related  
14 subvention funds. So we don't have a direct  
15 jurisdictional interest over the operation and maintenance  
16 by the reclamation district of its interior levees. And  
17 we're not approving any funds that are requested by the  
18 Department or the subvention program for this work.

19           We advised Mr. Tilton and RD 800, both, that this  
20 item would appear on the agenda. Of course, as you know,  
21 there's no time on any of our agendas, so -- other than  
22 the beginning time. And so we said we would probably be  
23 here after lunch, but we couldn't promise anything. That  
24 was about the best that we could do. And basically,  
25 indicate that we would come in with a review, an update to

1 the Board of what we had seen so far.

2 So far, I have not seen anything related to the  
3 issues that Mr. Tilton's raised that are relevant to the  
4 Board's area of jurisdiction or area of concern.

5 Particularly, historically, the Board has not taken a  
6 particularly active role in the day-to-day operations of  
7 Delta Reclamation Districts and levees.

8 The Board's jurisdiction is geographically very  
9 broad, as we were discussing earlier this morning. But  
10 there are projects all over the place that don't affect  
11 the State Plan of Flood Control, and that's really what  
12 the Board is primarily there to address, is to make sure  
13 that that plan operates as intended and is not  
14 compromised. And nothing in Discovery Bay, according to  
15 the engineers is likely to compromise the State Plan of  
16 Flood Control.

17 Now, there was an issue that was -- let's see.  
18 How do I do this?

19 --o0o--

20 LEGAL COUNSEL MORGAN: -- an issue not mentioned  
21 by Mr. Tilton. And I'm not sure exactly how we address  
22 this. But this relates back to the issue that was raised  
23 in Bethel Island context. Water Code Section 51020 and  
24 thereafter, talking about the Board approving plans of  
25 reclamation or modifications of plans of reclamation,

1 anywhere with the within the boundary of the drainage  
2 district.

3 --o0o--

4 LEGAL COUNSEL MORGAN: As you can see, there's  
5 Reclamation District 800 circled in yellow, the lower part  
6 of the diagram. The white/gray line, dashed line here is  
7 the district boundary. As you can see, Bethel Island is  
8 in it. RD 800 is also in it. We asked RD 800 if a plan  
9 had been provided to the County and from the County to the  
10 Board. And to their knowledge, no such plan has ever been  
11 approved by the Board.

12 So this was definitely a change of plan of  
13 reclamation. As you can see, going from what, as Steve  
14 said originally, a levee that would have continued to  
15 cross here, and now a levee that breaches through there, a  
16 loss of water here.

17 This is a very different plan of reclamation.

18 --o0o--

19 LEGAL COUNSEL MORGAN: It's actually sort of the  
20 upside down world of reclamation of flood levees instead  
21 of reclaiming the land. But nevertheless, it is  
22 definitely a different plan of reclamation. And the law  
23 specifically says that the Board is supposed to approve  
24 this. Now, this is not a new project. This is a done  
25 deal.

1           Where we go forward from here, I don't know. We  
2   can address that if you would like to. But that's the  
3   only outstanding legal issue, as far as the Board is  
4   concerned, that I think is before the Board at this time.

5           MEMBER BURROUGHS: One question: What year was  
6   that done?

7           LEGAL COUNSEL MORGAN: Steve, do you remember?

8           CHIEF ENGINEER BRADLEY: They started somewhere  
9   around 1980 doing this. It's been in several phases.  
10   Actually, the western side was done before the  
11   northeastern side. I thought it was the other way around.  
12   But I was talking to them yesterday, and they actually  
13   developed the western side of that before they did the big  
14   dip on the northeast side. So it's been over 15-year  
15   period. I don't know when they did the golf course or  
16   something, but it wasn't that long ago, as far as I  
17   remember.

18          PRESIDENT CARTER: Any other questions for staff?

19          Okay. Very good. Thank you, Scott.

20          Mr. Tilton?

21          MR. TILTON: Good afternoon, Board and  
22   Mr. President.

23          I appreciate your moving the agenda up. And I  
24   especially appreciate the gentleman for his consideration  
25   of time.

1           If it's possible to put up the one where the levee  
2 is?

3                               --o0o--

4           MR. TILTON: In regards to -- I have the  
5 documents. This breach of the levee was done in 1974.  
6 There is a permit. It's easily found. There's no need to  
7 guess. It was done by the Reclamation Board, actually by  
8 Discovery Bay Development Corporation. Mr. Hoffman was  
9 the president at that time.

10           This particular break in the levee here was done  
11 in 1968. This was the original -- right through here --  
12 plan of Discovery Bay. When Mr. Hoffman took control, in  
13 1972, he got a permit from the Army Corps of Engineers to  
14 make this break over here. And he did this in '74. He  
15 did it in stages throughout here. He did not come down to  
16 this area, in here, until 1980.

17           Now, it's interesting that it's posited that this  
18 is the main levee and no one has any jurisdiction or  
19 interest in it. But yet, if this main levee breaks here,  
20 it floods all of this. Any of this floods and you don't  
21 get water south.

22           Now, I understand the jurisdiction, I think. I  
23 don't really know where it is or how it lies. I'm  
24 bringing a question, I think, that should be investigated  
25 is: How is it this district did this boundary change here

1 from the levees, but yet their boundaries are out here,  
2 they collect tax money on all of this, but yet it's not  
3 protected, none, whatsoever, from the main flood control  
4 levee. But they exact taxes from all of this and taxes  
5 from all of this.

6 And there is no access road, as everyone that came  
7 out there saw along this levee here. And it is all one  
8 levee and it is all contiguous. That was one of my  
9 questions, that this needs to be addressed as far as  
10 acknowledging that it does exist. Because the Board, I  
11 understand, issues subvention funds or oversees the  
12 subvention funds to this particular district. And the  
13 district, as Mr. Bradley said, spends it over here along  
14 this edge, along here, where the levee is over here. But  
15 this is all one levee. It is contiguous.

16 And if the district says, this is an agricultural  
17 levee, how can that be? It's all one levee. And if this  
18 is all without flood insurance in here, FEMA-certified,  
19 which only means that the district filed a letter, saying  
20 that they did it according to FEMA, no one can inspect  
21 that; because the inspection arm for FEMA is Michael  
22 Baker, but they have to be notified by FEMA to go inspect  
23 something, and FEMA can only act if the local agency acts.

24 That's why I'm here: To see if there is anyone  
25 that is even interested in this, because of all the water

1 that goes south, 5 million acre feet, the fact that the  
2 State of California spends money for this, you require an  
3 agency to accept the money to sign a document that says  
4 they will do it to Army Corps of Engineer standards. Yet,  
5 as Mr. Morgan said, the case that I took to Supreme Court,  
6 says there's no public agency in the State of California  
7 that has a mandatory duty to maintain to any published  
8 standard, any published standard. No agency. This is  
9 different from any other state in the United States.

10 The question is becoming more and more that: How  
11 can California accept federal funds for projects in  
12 floodplains without requiring the agency that's in charge  
13 of maintenance, to maintain to the standard the other 49  
14 states have to do? It becomes unequal treatment. And I  
15 would appreciate if we could do an investigation by this  
16 Board.

17 I'm not sure exactly how to ask a specific  
18 question, because it is so huge. But I can ask the  
19 question. But I'm not sure if it is within your  
20 jurisdiction. I don't wish to waste your time. But I  
21 would like to inform you of how this actually works,  
22 because even though this is a lake, it is below the river.  
23 All this water that comes in up here, drains down through  
24 here, and then they pump it out, into the river. And  
25 flood season, like now, the water comes up to about within



1 2 feet of the top of the levee. This down here is about 7  
2 to 10 feet below the water level.

3 Now, any break in this levee -- and there's no  
4 water goes south. Department of Water Resources made a  
5 really interesting white paper in -- I believe, it was  
6 2004; and said that if this levee broke, or any Delta  
7 levee broke, that was close to the intake, no water could  
8 go south for a minimum of six to nine weeks, if we're  
9 lucky.

10 And here, there's no way to maintain or repair the  
11 levee in here, because the houses are on top of the levee.  
12 There's no access road.

13 I think somebody would be concerned about how that  
14 occurred and what we can do about it. There are  
15 solutions. There are solutions. But I would just like to  
16 work with you on a solution.

17 And I don't know where we go from here, but there  
18 are other people that are interested in this. But I would  
19 like to work with you.

20 PRESIDENT CARTER: Mr. Tilton, so is your concern  
21 about the entire levee system of RD 800, or is your  
22 concern about your specific property?

23 MR. TILTON: Well, I am concerned about my  
24 property. But what I'm concerned about is how the levee  
25 system works. And the whole state of California is put

1 into jeopardy because of what has occurred. Because any  
2 water agency -- there's 440 that wanted it published and  
3 it is now published, so it's law, that states, "No local  
4 agency in charge of impounding a structure has a mandatory  
5 duty to maintain to any published standard."

6 That's the language from the appellant court.

7 So if they said they do it to the Army Corps of  
8 Engineering standards, it doesn't make sense. And if they  
9 are required to sign that document -- I don't know -- it  
10 doesn't make sense, because they don't have to do it. So  
11 I'm really -- I would like to work with you, but I'm not  
12 sure how I can help you so that we can correct this  
13 solution. Because it's an enormous problem.

14 PRESIDENT CARTER: We're struggling how we help,  
15 because this, after an investigation by staff, that they  
16 have indicated to us that the Rec Board is not normally  
17 involved in these kinds of things. This is not a project  
18 levee.

19 So we're trying to figure out what our role would  
20 be in this case. So far, we don't see a role for us.

21 MR. TILTON: Is there any other person I should go  
22 see or agency that I should see that does have  
23 jurisdiction over this and that can correct this inequity,  
24 if you will?

25 PRESIDENT CARTER: Well, obviously, you've been to

1 the Reclamation District, RD 800. They clearly have  
2 jurisdiction over that structure in that area.

3 Do you have any other suggestions?

4 MR. TILTON: Actually sir, they deny having  
5 jurisdiction over the structure, where my house is, right  
6 here.

7 PRESIDENT CARTER: Is there anyone from RD 800 out  
8 there?

9 So we can't hear from them.

10 SECRETARY DOHERTY: Where do the developers go?

11 MR. TILTON: Beg your pardon, ma'am?

12 SECRETARY DOHERTY: Where do the developers go?  
13 Do they still maintain an office in the area?

14 MR. TILTON: Yes, ma'am. They are developing  
15 right in here. All this in here is now houses. It's all  
16 been developed over there. Mr. Hoffman was actually on  
17 the reclamation board, president of the Board, when they  
18 did the permit for this right here. There was a  
19 three-member board.

20 SECRETARY DOHERTY: I should think it would fall  
21 back to the developers to cure whatever it is you are  
22 asking them to cure.

23 MR. TILTON: It was all done through public  
24 agencies, ma'am. I don't know how that works. I mean, if  
25 the public agency gives the okay, I'm not sure. I mean,

1 the developer has to come to the public agency. If the  
2 public agency says, "Go do it," who is responsible? The  
3 public agency? They are the ones that issue the permits  
4 that have the land use authority. That would be the  
5 county. The reclamation district is the one that allows  
6 it to occur within the borders. That's my take.

7 PRESIDENT CARTER: Mr. Morgan?

8 LEGAL COUNSEL MORGAN: Yeah, the Reclamation Board  
9 he's referring to is not this Board, but the RD 800. They  
10 are the ones that are going to have the permit and  
11 authority for anything out there. And they are the ones  
12 that, in fact, issue the permits to allow this development  
13 to go forward and put houses right on top of the levees;  
14 to say the least, not be the textbook way for project  
15 levees.

16 I do want to make a few points clarifying some of  
17 the issues in terms of where the Board's interests are or  
18 jurisdiction lies.

19 There are -- there were some issues raised by  
20 Mr. Tilton about areas here being taxed and not receiving  
21 any benefits from the levees. That's a local issue. I  
22 mean, Reclamation District has defined boundaries. They  
23 send out their assessments. And if people believe they  
24 are not receiving benefits, that's something to take up  
25 with the local level. That's not a Rec Board issue. The

1 Board has no authority or responsibility to oversee the  
2 inner workings of these reclamation districts.

3 The Board comes in when a district is not doing  
4 maintenance. And the Department decides that they want to  
5 form a maintenance area and ask the Board for permission  
6 to do that and approval of their plans for maintenance  
7 area.

8 There's been no request to do that. Discovery  
9 Bay, I expect, they have plenty of money from the  
10 assessments they are getting from the homes. They are to  
11 do all the work that they feel is necessary.

12 Again, the lack of an access road, because even on  
13 project levees, they are not going to be designed to our  
14 standards.

15 The critical question about whether or not there's  
16 anyone in the state of California required to live up to  
17 any federal standards, again, the case was a procedural  
18 case. It was all about the pleadings. And the reference  
19 to the lack of a duty to build or maintain, to a certain  
20 standard, was linked to Mr. Tilton's tort claims. He had  
21 a number of tort claims. He had seven or eight claims in  
22 all. I forget. A number of them were tort claims:  
23 trespass, nuisance, things like that. And the California  
24 Tort Claims Act requires you to specifically show there  
25 was a mandatory duty by the government agency to do

1 something that avoids the specific harm of the levee.

2 And what he was not able to show was that there  
3 was a mandatory duty -- what he did not show was that a  
4 mandatory duty existed, by RD 800, to keep their levees  
5 from subsiding and causing subsidence. It was a very  
6 unusual case. One of the first things that struck me was  
7 that unlike every other levee case, there was no flood.  
8 That's usually the first thing that you see, was the rains  
9 of January '87 and such and such happens. But there was  
10 no flood. This is all just structural issues.

11 That is not a general rule of law in California  
12 that is saying that no agency in California can bind  
13 themselves to promise to maintain, to construct -- operate  
14 or maintain to federal standards. In fact, we do it all  
15 the time. The project levees are, in fact, designed and  
16 maintained and operated in that fashion.

17 So that would not be the case for project levees.  
18 They are built to -- at federal standard. The federal  
19 standard may change; there may be a new federal standard.  
20 But they were built to the federal standard at the time  
21 they were constructed by the Corps of Engineers. These  
22 were not Corps-designed, Corps-constructed, so those rules  
23 do not apply.

24 And so the --

25 MEMBER RIE: Can I interrupt you?

1           LEGAL COUNSEL MORGAN: Sure.

2           MEMBER RIE: Mr. Tilton said -- and he got this  
3 from the appellate court -- that no state agency, whether  
4 it be a county, reclamation district, or any other agency  
5 has a mandatory duty to maintain to a particular standard.

6           But don't we have a mandatory duty to maintain our  
7 levees in accordance with 20810?

8           LEGAL COUNSEL MORGAN: We will have a mandatory  
9 duty to maintain our levees, whatever we've agreed to  
10 Corps. We will have an operation and maintenance manual.  
11 We will have an agreement with them. The local agency  
12 that takes it over from us will agree to maintain --  
13 operate it and maintain it to that standard. So we have,  
14 by agreement, said, yes, we will make it into a specific  
15 standard.

16          MEMBER RIE: So would the Corps consider that a  
17 mandatory duty for the state of California, in our case,  
18 if it were a federal project levee?

19          LEGAL COUNSEL MORGAN: Yeah, I believe there, we  
20 would have a mandatory duty to maintain to, because we  
21 have an agreement -- requirement.

22          MEMBER RIE: We have a cooperation agreement with  
23 the federal government?

24          LEGAL COUNSEL MORGAN: The chances are very good  
25 that that would be a successful argument against project

1 levees.

2 MEMBER RIE: So what the appellate court was  
3 saying that RD 800 didn't have a mandatory duty?

4 LEGAL COUNSEL MORGAN: Well, it was more than that  
5 too, because again --

6 MEMBER RIE: Did they apply that logic to all  
7 agencies or just that agency?

8 LEGAL COUNSEL MORGAN: No, they did not. It's a  
9 fact-specific case. It was specific to the pleadings that  
10 were offered in this case, for these levee, non-project  
11 levees.

12 And again, the other prong of the requirement of  
13 the Tort Claims Act is that the mandatory duty must be to  
14 prevent the specific harm that occurs. So if you have a  
15 mandatory duty to maintain to federal standards, it's to  
16 prevent failure to the levee and flooding. But if someone  
17 trips and falls, because there was a gopher hole, and  
18 someone says, "Well, you have a mandatory duty to  
19 eliminate gopher holes," that's not the harm they are  
20 worried about. They are not worried about people tripping  
21 in gopher holes. They are worried about the gopher holes  
22 causing failure for the levee.

23 So you are going to have to look and make sure  
24 that the harm that you are alleging relates to the duty  
25 that you have to undertake the maintenance and operation



1 of the levees according to federal standards. And you  
2 know, all the federal project levees, we've told the  
3 court, we will maintain them to your standards.

4 MEMBER BURROUGHS: Question.

5 PRESIDENT CARTER: Go ahead. Let's try and cut to  
6 the chase. I'm still trying to figure out what --

7 MEMBER BURROUGHS: That's my question. So would  
8 getting rid of the word "mandatory" -- okay, just cutting  
9 to the chase, as Ben just stated, what are the current  
10 problems, and what could we do? Whether we're mandated or  
11 not, what can we do to help this particular situation?

12 LEGAL COUNSEL MORGAN: Well, in this case nothing.  
13 I really don't think it's a Board issue. I'm not seeing  
14 anything that's a Board issue.

15 The one thing that I've heard here today relating  
16 to the use of subvention funds, you know, we could ask the  
17 Department of Water Resources, that divides that money for  
18 subvention funds, whether or not they consider the  
19 subvention funds, expended on this island and for RD 800,  
20 a good use of money. And are they concerned about the  
21 gaps in the levees and the failure of the levees that have  
22 residences on them. We can ask them that. They come to  
23 the Board annually for approval of their expenditures.  
24 And we could ask them to come in early and talk about  
25 that.

1           But again, I think, as was specifically mentioned,  
2   the reason that the Department has that program and has  
3   been asked by the Legislature and the voters to fund that  
4   program, that hadn't been asked to fund that program. The  
5   reason that the voters and Legislature fund the program is  
6   to tell the Department to give the money to these islands,  
7   to make sure they have enough money to do the maintenance  
8   so the levees won't fail, so the water will continue to  
9   flow.

10           MEMBER BURROUGHS: You know, I disagree with some  
11   of the statements made today. Because we've talked about  
12   this all along, that the whole system is a whole. And we  
13   can't look at isolated individual things; we have to look  
14   at the whole.

15           And if there is allegations that this levee  
16   system, whether it comes under our jurisdiction or not,  
17   which I personally think it does, because it affects the  
18   whole system, why can't we just ask the questions that  
19   help get the problem solved?

20           LEGAL COUNSEL MORGAN: I guess the question is:  
21   The first issue has to be, we have to hear from  
22   Mr. Tilton, what problem do you want us to work on? And  
23   then we can look and see where our jurisdiction lies.

24           And so far, with the exception of the subvention  
25   funds and, sort of, a general concern that this is an

1     unwise use of funds, I would characterize it that way. I  
2     haven't heard anything specific.

3             MEMBER BURROUGHS: How about just public safety  
4     and the quality of the levee system and have some kind of  
5     investigation or questions that would help address the  
6     issue of public safety?

7             LEGAL COUNSEL MORGAN: Well, again, this would be  
8     something to ask the subventions people.

9             MEMBER BURROUGHS: I guess -- I'm sorry. I  
10    just -- I'm having trouble right now with this because I  
11    don't think it's totally all up to Mr. Tilton to put in  
12    writing what his specific questions are.

13            If we're looking at public safety as a whole, we  
14    can say, okay, what are -- come with some solutions on  
15    recommendations of where we can go with this, not just  
16    that it's not in our jurisdiction. I'm having a problem  
17    with that.

18            PRESIDENT CARTER: Rose Marie, but by the same  
19    token, I have not -- I mean the safety of these levees --  
20    so far, repairs have been made, the levees are being  
21    maintained according to the reclamation district.

22            And so I don't know -- I'm not convinced that  
23    public safety is an issue right here.

24            MEMBER BURROUGHS: That's true if -- but I heard  
25    Scott just say that there were some holes in the levees.

1           PRESIDENT CARTER: Those are breaches, I believe.

2   You are referring to breaches?

3           MEMBER BURROUGHS: I heard the world "hole."

4           LEGAL COUNSEL MORGAN: Right here. "The  
5 deliberate breach of the levee where water is deliberately  
6 allowed to flow in." But they don't do levees back here.

7           PRESIDENT CARTER: That's not a public safety  
8 issue. That's an intentional breach in the levee to allow  
9 water to go into that particular area.

10           So I'm not convinced or I haven't heard anything  
11 today that says that public safety is at risk at this  
12 point. There were some problems with some subsidence.  
13 Repairs were made with sheet pile and rock. And RD 800 --  
14 I guess, you heard that RD 800 has been satisfied with the  
15 repairs. They are -- you implied that they are a  
16 well-funded district.

17           LEGAL COUNSEL MORGAN: I would assume  
18 considering --

19           MEMBER BURROUGHS: So has anyone from our staff  
20 talked to RD 800?

21           LEGAL COUNSEL MORGAN: We did. But again, you  
22 know, I don't want us to go out too far, getting into the  
23 technical issues of what RD 800 did and the satisfactory  
24 conclusion of that, because this is their project. It's  
25 not our project. It's their responsibility. It's not our

1 responsibility.

2           And so we don't want to be second-guessing what an  
3 independent agency exercising their own authority has  
4 done. They are satisfied with it. I can appreciate that  
5 an individual who is unsatisfied with the results is not  
6 going to be satisfied with that. But that doesn't  
7 necessarily require the Board to take a lot of action. At  
8 the same time the reason we went out, the reason we  
9 inquired about this, is when somebody raises an issue, we  
10 don't expect them to know the entire parameter of our  
11 jurisdiction or the limit of what Board activities are.  
12 And we take it upon ourselves to look into it and see if  
13 there's something there.

14           And that's why, I say, there is an issue with the  
15 fact that this reclamation project was never approved by  
16 this Board. And that leaves us in somewhat of an odd  
17 position.

18           I don't know, again, 20 years after the fact what  
19 you do about that fact. But it's definitely something  
20 that was never approved by the Board. I don't think that  
21 the Board's approval of this project would provide any  
22 satisfaction to Mr. Tilton, because what the Board would  
23 do would be after the fact, either approve the project as  
24 designed or suggest some alternate design that the  
25 developer or the reclamation district or whoever would

1 implement. But I don't think it would involve  
2 Mr. Tilton's property whatsoever.

3 It would probably relate to those openings out to  
4 the river, because what the Board's interest in is  
5 primarily, how is what you are doing here going to affect  
6 the State Plan of Flood Control. And the nearest levees  
7 of the State Plan of Flood Control are a good distance  
8 away. That project levee is a great distance away.

9 SECRETARY DOHERTY: I would like to see us, then,  
10 direct you to find out about the subvention funds. But I  
11 also feel, at this point, according to your legal advice  
12 and to what we know now, we are not responsible for those  
13 levees. That's my opinion. But I would also suggest you  
14 go back to the developer. And also, that pile of paper we  
15 got from the attorney, the extra pages from 108 has  
16 nothing to do with this.

17 PRESIDENT CARTER: Any other comments, ideas,  
18 direction?

19 MEMBER BURROUGHS: I have one question, then,  
20 Mr. Tilton. If you could -- you said you had some  
21 solutions. Could you briefly tell us what your thoughts  
22 are on that?

23 MR. TILTON: Well, the solution that I've come to  
24 is, is that we need to work together. I would like to see  
25 an investigation.

1           The court case has been talked about, talked  
2 about, but remember, there was no discovery. The judge  
3 just made a decision. There was no trial or discovery.  
4 The judge just made a decision. And it was a decision  
5 made on a demurrer. There was no other -- they did not  
6 take my declaration. They took the declaration from RD  
7 800 but not from me or anyone else. And the judge just  
8 made a decision. That's all it was.

9           It took about 45 minutes and the judge threw it  
10 out, just like that. You have to remember, Contra Costa  
11 has a vested interest in this.

12           MEMBER BURROUGHS: I'm sorry, to interrupt you.  
13 But that's past. So we are just trying to move forward  
14 from here. So specifically on solutions, other than an  
15 investigation by who would you like to see?

16           MR. TILTON: Well, I thought the Board would be  
17 curious, because not only for public safety, but the  
18 floodplain of this particular area, because I understood  
19 that you had charge in the floodplain of all of  
20 California. And also, the water, for 22 million  
21 Californians goes by here every year. And I don't see any  
22 concern for that, or at least not a real heightened  
23 concern. And I appreciate your patience and I appreciate  
24 your knowledge and your questions.

25           But, yes, I'm not an engineer, so there are

1 solutions. I have some. But it has to be looked at by an  
2 engineer and not someone with a vested interest. Because  
3 if you want to work with a local agency, they have a very  
4 vested interest in what they are doing. So does Contra  
5 Costa County.

6 But all of California is paying for this. And  
7 it's any agency, as the court documents said, does not  
8 have a mandatory duty. No matter what kind of paper they  
9 sign, the law is, they don't have a mandatory duty. And  
10 that's the unfortunate part. It really is.

11 But that's about all I can say until we get  
12 further or somebody wants to do something. I don't know.  
13 I would like to work with somebody. But if you don't have  
14 any jurisdiction and it's not that important, then I  
15 understand that. I don't agree with it, but I understand  
16 it. And I will move on.

17 But I would like to work with you. Otherwise, I  
18 guess what I'm being told that this is the end of my  
19 administrative remedies session. But I would like to work  
20 with you. So I just need an indication that there's --  
21 you know, you have something or some interest in it, or  
22 you can direct me to someone that does, that's concerned  
23 enough to do this.

24 Thank you very much for your time.

25 MEMBER RIE: I have a question: Does the Rec



1 District have an O&M manual for their maintenance?

2 MR. TILTON: Well, they are required to. But  
3 there's never been one published.

4 MEMBER RIE: They don't have a published set of  
5 guidelines that they follow?

6 MR. TILTON: No. And now with the court case,  
7 it's moot, anyway. They can do whatever they want with  
8 the money, the tax money. They don't have to do anything  
9 to any published standard. The letter from the Contra  
10 Costa County Supervisor says they will do "sound  
11 engineering," but there's no definition for "sound  
12 engineering."

13 MEMBER RIE: Perhaps you can work with the  
14 reclamation district, you and your neighbors, and put  
15 together standards for Discovery Bay, for those -- for  
16 that particular levee.

17 But I think that's something that you and all the  
18 people who live within the reclamation district are going  
19 to have to do with the reclamation district.

20 MR. TILTON: Well, I think the Legislature makes  
21 the law.

22 MEMBER RIE: No, the O&M manual for your district.  
23 You guys are all members of that district. So maybe you  
24 can work with your reclamation district and put something  
25 together. Because we -- we don't have standards for that

1 particular levee, because it's not a project levee. That  
2 would be your district. So -- I don't know. It's just an  
3 idea.

4 MR. TILTON: We've tried. But we can keep trying.  
5 But that's why I am here, because the State Reclamation  
6 Board has authority for all floodplains or flood control  
7 in the state of California. I thought this was part of  
8 it.

9 So I apologize if I got that incorrect.

10 VICE PRESIDENT HODGKINS: Can I ask you, looking  
11 at the diagram in here, we have a crack. Let's assume  
12 that continues and eventually the house subsides.

13 What happens if the entire levee subsides?

14 MR. TILTON: Well, the whole area is flooded,  
15 right through here, all inside this yellow line. It's all  
16 flooded.

17 VICE PRESIDENT HODGKINS: Where is your house  
18 specifically?

19 MR. TILTON: It's right about here. As I pointed  
20 out, the levee actually jogs up and then goes back around,  
21 as I showed you in that one drawing. And the reason it  
22 does that is it had to gain height. This, down here, is  
23 all much lower, 7 to 10 feet lower than the height of the  
24 levee itself.

25 Now, the reason it jogs up is, like he said,

1   there's like a finger that goes out here, but it's  
2   actually part of the levee. The levee comes out, goes up,  
3   comes back, goes like this, and they have to maintain the  
4   height. And if it breaks, it all floods.

5           VICE PRESIDENT HODGKINS: I think part of what's  
6   happened here, that the embankment that your house has  
7   been built on, levee, whatever it is, wasn't built to a  
8   certain standard to maintain a home on top of it for a  
9   long period of time. Okay? And that's showing up. The  
10  peak is shrinking, and you are getting subsidence and some  
11  problems throughout the delta.

12           I think that the district has the choice of  
13  deciding when that issue becomes critical enough that the  
14  public safety inside the levee is threatened by a failure.  
15  If they see that, then they are going to be potentially  
16  liable for flooding inside the boundary of that levee,  
17  whenever property is flooding.

18           Now, as I kind of understood how this thing is  
19  constructed, it's all built above the floodplain. So even  
20  if it floods in that area, there's no damage of the  
21  structures.

22           So I guess fundamentally, I think the situation  
23  here is one where it really isn't a flood control issue.  
24  It's an issue of an embankment that wasn't properly  
25  constructed to support a house. And that's showing up,

1 but it's showing up too late to give you access, under the  
2 statute of limitations, to the people who constructed that  
3 embankment, which I assume were the developers.

4 And unfortunately, I think the situation simply is  
5 that there's nothing we can do to help you with that  
6 particular problem. It's not our issue. It's not that we  
7 don't sympathize for you and that we don't see this thing  
8 happen, but it is not a public safety issue other than for  
9 the safety right now of your house. And I just -- I do  
10 think we need to check and make sure that -- do we  
11 require -- if you get subventions money, don't you agree  
12 then to maintain the level to the PL -- whatever the heck  
13 that number is? Does anybody know?

14 PRESIDENT CARTER: 84-99.

15 VICE PRESIDENT HODGKINS: 84-99.

16 CHIEF ENGINEER BRADLEY: There are certain levels  
17 of the standards in the Delta that they are trying to  
18 achieve. They've got the Habitat Conservation Standards;  
19 they've got a PL84-99 standard; and I think there's a FEMA  
20 standard, which is 1 foot above the floodplain.

21 But they are trying to get there. They are not  
22 all there. And the money is used by the districts in  
23 order to start achieving that. But they have to put up --  
24 they have to come forward with a plan. They have to put  
25 up some of their own money. Some of them have chosen not

1 to put up the money.

2 VICE PRESIDENT HODGKINS: Okay. Because we  
3 sympathize with you, I think -- I mean, I'm willing to go  
4 so far as to have the subventions people in DWR check to  
5 make sure that whatever subvention money is going to this  
6 reclamation district is being spent on things that the  
7 subvention is for. But the whole purpose of the  
8 subvention funds, in effect, was to assist in the  
9 maintenance of levees that are critical to the water  
10 system.

11 And I'm just looking at those and I'm not sure  
12 those are critical to the water system. So I'm not sure I  
13 know how they get any money out of the subventions  
14 program. But everything is a political compromise in the  
15 end, and maybe it is critical. I just don't think there's  
16 a lot of water flowing by any of those levees when the  
17 pumps are on. Is there?

18 Anyway, it's a different issue. It's an issue of  
19 whether, in the subventions program, the money the  
20 district is getting is being properly expended. I'm  
21 willing to ask staff to ask DWR to come back and respond  
22 to that question; okay?

23 That's a fair request to ask. With respect to  
24 making anybody do anything to stop your house from going  
25 into the water, I don't think we can do that or repair the

1 damage that's already there.

2 MR. TILTON: That is not my question, because I  
3 understand that.

4 But this over here, just to make sure everyone's  
5 clear -- this over here is much lower than the river. It  
6 would all flood, sir. The engineer of RD 800 admitted  
7 that to the staff when they were there. It would flood  
8 Highway 4 and all of that. If this -- if any of this  
9 portion of this levee broke anywhere, it would flood all  
10 of Highway 4 and all this area through here. That is --  
11 that is a fact. That's nothing there that's higher than  
12 the floodplain.

13 VICE PRESIDENT HODGKINS: I saw a diagram the  
14 other day that would have been nice for you to see. I  
15 mean, you have the ability to go to FEMA and tell FEMA you  
16 don't believe this levee is built under your standard.  
17 But there's nothing that the Reclamation Board is going to  
18 do about this. Because I think right now, as we look at  
19 it, our staff doesn't see a potential public safety  
20 problem.

21 Is that our statement, or am I putting words in  
22 people's mouths?

23 MEMBER BURROUGHS: I do agree with Butch's  
24 request. I would like to see -- I applaud that effort to  
25 ask the question.

1           PRESIDENT CARTER: Does any Board member have any  
2   objection to asking the question of the subventions  
3   program for -- to just investigate to make sure the money  
4   that is going towards RD 800 for subventions is directed  
5   in the right spots, and they don't have concerns of the  
6   levees that are circuitously routing through Discovery Bay  
7   development?

8           Okay. So we would like staff to go ahead and do  
9   that.

10          I think beyond that, Mr. Tilton, I'm sorry.  
11   There's not a whole lot that the Reclamation Board can do  
12   at this point. We will wait and see what the -- what the  
13   feedback is from the Delta Levee Subventions Program and  
14   DWR with regard to that investigation. And staff will  
15   also -- Reclamation Board staff will also review that when  
16   it's complete.

17          Is that -- I'm sorry, but that's about the extent  
18   of what we can do at this point.

19          MR. TILTON: I thank you for your time. I really  
20   appreciate your efforts in this regard.

21          And yes, sir, I have contacted FEMA and few other  
22   agencies, and I wanted to make sure this Board doesn't  
23   come under criticism and does what they are doing and they  
24   do it well. Because Katrina happened because of a local  
25   agency. And I wish and hope that what you do will stand

1 the test. Because I really appreciate your concern.

2 Thank you very much. Appreciate it.

3 PRESIDENT CARTER: Thank you.

4 Okay. We -- now we will move on to Item 16,  
5 Sacramento Area Flood Control Agency, 16.A., Briefing on  
6 Encroachment Permit Application, Natomas Levee Improvement  
7 Program, Programmatic Permit.

8 Mr. Bassett, thank you for your patience.

9 MR. BASSETT: I've got about -- stuff to hand out  
10 to you with regards to the PowerPoint presentation, if you  
11 could give me a couple minutes.

12 PRESIDENT CARTER: Why don't we all stretch our  
13 legs for about five minutes, maybe stretch in place.

14 Then we will reconvene in five minutes. So about  
15 2:25.

16 (Thereupon a break was taken in  
17 proceedings.)

18 PRESIDENT CARTER: Ladies and gentlemen, we'll go  
19 ahead and take our seats. We will go ahead and start with  
20 Item 16, SAFCA Encroachment Permit Application, Natomas  
21 Levee Improvement Program.

22 MR. BASSETT: John Bassett, one of the deputy  
23 directors of engineering with SAFCA. As we requested at  
24 our -- at your December meeting, I would like to present  
25 an information item to you today.





1           MR. BASSETT: This basin, as well as many other  
2 basins, withstood quite a few significant flows. This is  
3 a report on the peak flows in the Sacramento River. And  
4 again, 1986 and 1997, Natomas basin, for the most part,  
5 came through okay. In 1986, of course, there were issues  
6 with --

7                               --o0o--

8           MR. BASSETT: I can't find the pointer here. But  
9 on the levee there was landslide sloping. And this storm,  
10 as well as issues up and down the valley, caused the Corps  
11 of Engineers to revise the level of flood protection,  
12 basically for the entire valley, not just the city of  
13 Sacramento.

14                              --o0o--

15           MR. BASSETT: As you can see, the Natomas basin is  
16 here. This slide is somewhat distorted. The Reclamation  
17 Board, along with the Corps of Engineers, conducted the  
18 Sac Urban Levee Reconstruction Program along the  
19 Sacramento River, down to Freeport, all the way up to  
20 Verona here; and initiated other improvements along the  
21 American River. SAFCA, after the 1992 authority granted  
22 to SAFCA improved by Congress, undertook the north area  
23 project, the blue items here, and up along the cross  
24 canal. Those were undertaken cooperatively between the  
25 State Corps and SAFCA. And a lot of those improvements

1 are leading to the certification of the levee system;  
2 initially, in 1998, in Natomas; 2005 in the American River  
3 floodplain; and hopefully next month or so in the area  
4 around the Pocket.

5 --o0o--

6 MR. BASSETT: After the flood of 1997, the Corps  
7 of Engineers, as Mr. Hess discussed this morning, took a  
8 look at the flooding in 1997, the failures of the levee,  
9 and determined that deep underseepage was a risk that they  
10 hadn't looked at probably quite as much as they needed to  
11 earlier. So the American River Common Features was  
12 expanded. The cut off walls there went from a 30- to  
13 40-foot depth down to 80 feet.

14 The Corps developed some preliminary designs in  
15 the Natomas area. And Mr. Hess indicated they formed the  
16 Levee Seepage Task Force in 2003. In 2004, the Sacramento  
17 District developed a standard operating procedure for  
18 analyzing the levees in the district's jurisdiction for  
19 underseepage.

20 --o0o--

21 MR. BASSETT: And again, the deep underseepage  
22 issue, as Mr. Hess was talking about, is pressure through  
23 the levee where you would pipe material through the levee.  
24 That was what occurred in the Natomas levees in 1986,  
25 which was fixed by the Sac Urban Project.

1           Recent issues are related to the piping of the  
2    deep foundation items, where, Mr. Hess was, again, saying,  
3    the pipe forms on the land slide, loose material, and the  
4    hole opens up as other material is moved out. As this  
5    hole gets bigger, the levee can slump into the hole and be  
6    overtopped.

7           That is some of the failure mechanisms that were  
8    evident in some of the failures in 1997 in the levee  
9    system.

10           But because of the Sac Urban work, most of the  
11    levees in the Sacramento area perform fairly well.

12                               --o0o--

13           MR. BASSETT: Based on the authorizations that  
14    SAFCA undertook, the Natomas Levee Evaluation Program, the  
15    study conclusions were that, based on the updated  
16    hydrology, after 1986, approximately 12 miles of the  
17    Sacramento River and 5 miles of Natomas Cross Canal needed  
18    raising; approximately 2 miles of the Sacramento River  
19    needed bank protection; and actually, two sites on the  
20    Sacramento River and Natomas are now locations where the  
21    Corps is undertaking emergency work beginning, probably,  
22    within a week or so, at river mile 78 and 689; and also,  
23    that several miles of levee needed underseepage or seepage  
24    remediation.

25           One of the things that we found somewhat

1 surprising, although we kind of thought that it might be  
2 there, is that additional work was also recommended for  
3 100-year level of protection. The preliminary cost of  
4 that work is estimated to be about \$414 million.

5 --o0o--

6 MR. BASSETT: This work would protect the existing  
7 development in the Natomas area, over 70,000 residents,  
8 over 23,000 single family homes. A number of multi-family  
9 homes. I've got 8,000 here. It's kind of hard to  
10 calculate how many multi-family homes are in the Natomas,  
11 because of the structures of the apartment complexes  
12 there. There are 400 public buildings, 580 commercial and  
13 170 industrial structures. There is the Sacramento  
14 International Airport, Interstate 5 and 80 and 99 and 70.  
15 And the current estimate is somewhere around \$10 billion  
16 damageable property that exists within the basin.

17 Our design alternatives --

18 --o0o--

19 MR. BASSETT: -- we are looking for three feet of  
20 freeboard, at a minimum, on the 200-year water surface  
21 profile.

22 There are riprap and habitat restoration to  
23 address erosion. We have cutoff walls, seepage berms,  
24 relief wells, and other site-specific alternatives. And  
25 also, we looked at a secondary or a setback levee in the

1 northern 5 miles of the Sacramento River. But that cost  
2 pushed the 414 million-dollar cost up to 480 to  
3 \$580 million, depending on where you could get material  
4 for that levee. If you had to haul it in from outside the  
5 basin, it would be about 580 million. If you could  
6 utilize material next to the levee, you might be able to  
7 do that for 480 million-dollar price.

8 So our proposed improvements in our study --

9 --o0o--

10 MR. BASSETT: -- the study that we handed out to  
11 you, about a three-quarter-inch-thick book of paper there,  
12 is to address the cross canal where we have freeboard  
13 raises and underseepage raises. The Sacramento River uses  
14 freeboard; some erosion in the green; land the  
15 underseepage issues in the red. Those are the identified  
16 issues.

17 But also, on a project undertaken by DWR in their  
18 AB 142 funded activities, I think which would be rolled  
19 over to the properties in 1E, along the east side of the  
20 district, DWR will be conducting additional investigations  
21 for determining that that levee system, that we repaired  
22 in the southern -- to Dry Creek area, here, upstream of  
23 our Dry Creek, all the way up to the cross canal, to make  
24 sure that that whole levee system meets current Corps of  
25 Engineers' criteria.

1                               --o0o--

2               MR. BASSETT: Options for improving the levee  
3 system, where we have deep seepage issues is to construct  
4 a deeper cutoff wall next to the shallow wall, that was  
5 constructed under Sac Urban. As you can see, south of  
6 Interstate 80, there's a lot of houses that butt up right  
7 against the levee. We have limited room to work. We  
8 don't anticipate using flood walls in those locations,  
9 except maybe on some limited crossings and some utilities.

10                           --o0o--

11              MR. BASSETT: Upstream of I-80, again, there was  
12 either a shallow cutoff wall constructed or a seepage berm  
13 constructed. In the Sac Urban project, we would construct  
14 seepage berms anywhere from a hundred to 400 feet wide.  
15 We would raise the levee to provide the additional  
16 freeboard, and we would also flatten the levee over time.  
17 Initially, we would take it to a 3-to-1 slope on the  
18 backside, which meets current Corps criteria, but also  
19 recognizing that this levee system is going to protect --  
20 and that 3-to-1 slope in the seepage berm would get us our  
21 200-year. Also recognizing that this levee system is  
22 going to protect quite a bit more urbanization. We would  
23 work towards further flattening on the landside of the  
24 levee, so that the Sacramento River could sustain -- or  
25 the levee system along the Natomas area of Sacramento

1 River in Natomas and American River. A elevated water  
2 source elevation in the river for an extended period of  
3 time. Sometimes the water is up there a month, month and  
4 a half. And in 2006, we almost had a four-month-long  
5 elevated period.

6 So again, where we don't have room for berms or  
7 where a cutoff wall is more feasible, we would do a deeper  
8 cutoff wall; similar raise and flattening of the back  
9 slope.

10 Mr. Hess indicated the potential for relief wells,  
11 which is also a suitable mechanism, although the  
12 groundwater in the Natomas area tends to have quite a bit  
13 of iron bacteria in it, and that tends to foul seepage  
14 wells, so there are higher maintenance costs associated  
15 with those.

16 On the Natomas Cross Canal, again, we would raise  
17 the levee to provide 3 feet of freeboard on the 200-year,  
18 flattened to the 3-to-1 backslide, and 5 to 1 over time;  
19 and also construct the cutoff wall on the order of 75 to  
20 80 feet deep to handle the deep underseepage issues.

21 This is the cross-section or levee profiles  
22 showing various top levee elevations and water surface  
23 profiles. Some of them are pretty busy. There's a 1957  
24 water surface design. There's a minimum 1957 profile,  
25 which is 3 feet above that. There's the 200-year water



1 surface; the 200-year design top of levee, as well as --  
2 even though there was a minimum 1957 top of levee, most of  
3 the levees were higher than that, so this is what this  
4 line is, the 1957 profile; as well as the green is where  
5 the levee is now.

6 So you can see, we are within, say, two and a half  
7 to three feet, our ultimate height that we want to do in  
8 the northern 12 miles of the district. But the -- the  
9 existing top of the levee is, for the most part, above the  
10 200-year water surface already.

11 --o0o--

12 MR. BASSETT: This is a similar slide on the  
13 American River.

14 --o0o--

15 MR. BASSETT: And a similar slide on the Natomas  
16 Cross Canal.

17 --o0o--

18 MR. BASSETT: Again, this is our cash flow  
19 analysis where we anticipate utilizing, in the early parts  
20 of the program, utilizing state funds from Proposition 1E,  
21 to fund the state's participation.

22 This -- today we released a draft engineer's  
23 report on a formation of a new assessment district to fund  
24 the local share. And the Corps' Natomas General  
25 Reevaluation Report would be expected to handle the

1 funding in the outlying years, in 2011 through 13, to get  
2 us our total project cost which would get the Natomas  
3 basin up to a 200-year level of protection.

4 --o0o--

5 MR. BASSETT: The assessment district that we're  
6 working on now is actually going to work to get the rest  
7 of Sacramento up to a 200-year also. There are parts of  
8 the Pocket area which are just getting hundred-year and  
9 require additional work as well as additional workup in  
10 Folsom Dam, to get the Sacramento area to 200-year.

11 Recognizing the results of our evaluations study,  
12 the Corps and FEMA are working on a map revision for the  
13 floodplain maps in Natomas, which anticipate effective  
14 maps by the end of 2007.

15 The City and County are now working with FEMA to  
16 determine what zone would be designated for the Natomas  
17 area. In the meantime, the City and County, with SAFCA's  
18 participation, is having several public outreach  
19 activities. There's a promotion of the national flood  
20 insurance program, getting flood insurance.

21 The City has -- and County -- have levee failure  
22 scenarios that are available on their Web site, so people  
23 who live in the area, or thinking of buying houses in the  
24 area, can take a look at the risk.

25 There are community meetings on general disaster

1 preparedness. And the CRS rating, which is the national  
2 flood insurance programs, to commend cities and counties  
3 to go over and above the minimum requirements for the  
4 national flood insurance program. City and County of  
5 Sacramento have a rating of six and five, kind of in the  
6 upper 20 percent under the CRS. So as the rating  
7 increases or, I guess, decreases -- because number one is  
8 the highest -- the flood insurance rates for the community  
9 are actually reduced, or given the discount. And then as  
10 I mentioned, right now, we have our assessment ballot  
11 process to fund the local share.

12 --o0o--

13 MR. BASSETT: The authorities that are out there  
14 right now for raising the levees, as we are proposing in  
15 Natomas Levee Improvement Program, on the Sacramento  
16 River, Water Resources Development Act, that is Congress,  
17 of 1996, allows the Sac River to be raised. That was  
18 followed by the California Water Code, which authorizes  
19 similar improvements. Natomas Cross Canal raises -- both  
20 the north levee and south levee were authorized by WRDA in  
21 1999, which followed, again, with Water Code 12670.14.

22 And then also on your WRDA 96 as well as 99  
23 reaffirmation and Water Code 12670.16, SAFCA is authorized  
24 to undertake these improvements in advance of the State or  
25 the Corps, to jump ahead and use local funding or state

1 contributions ahead of the Corps program, to put flood  
2 insurance -- not flood insurance, but flood protection in  
3 place as soon as possible.

4 --o0o--

5 MR. BASSETT: So for those programs, the Corps of  
6 Engineers is lead on Natomas General Reevaluation Report,  
7 which is looking at, again, expanding the improvements in  
8 Natomas, the flood control improvements. The Reclamation  
9 Board, in some of this Board's activity here, is also  
10 subject to other items on today's agenda -- protection for  
11 Item 10 covers this Section 104, Credit Agreement.

12 Reclamation Board would issue permits to SAFCA if  
13 we were to undertake the new project as lead agency for  
14 the construction and CEQA activities.

15 And this is -- we've had several meetings and  
16 discussions with state DWR as well as the Reclamation  
17 Board personnel. And I think some of this we've agreed  
18 to, but I think it's also subject to your Board approving  
19 the general format of how we're going to be moving  
20 forward.

21 --o0o--

22 MR. BASSETT: The implementation schedule; Safety  
23 issued the draft EIR for the project and the funding  
24 mechanism, which I think was handed out to your Board, at  
25 your November meeting.

1           Comment period closed on January 2nd.

2           I would expect the final EIR to be certified by  
3   the SAFCA board on February the 15th, which would follow  
4   on with a balloting in March or April.

5           We would expect our first construction project in  
6   April 2007, with overall project completion getting the  
7   Natomas basin up to 200-year protection somewhere in the  
8   2012-, 2013-year timeframe.

9                               --o0o--

10          MR. BASSETT: And with that, I will answer any  
11   questions on the programmatic permit, if you have any,  
12   before moving on to the cross canal.

13          PRESIDENT CARTER: Any questions from the Board?

14          MEMBER RIE: Yes.

15          PRESIDENT CARTER: Teri?

16          MEMBER RIE: Does the programmatic permit include  
17   raising all the levees?

18          MR. BASSETT: Yes. The activities that we have  
19   requested in the programmatic permit include raising the  
20   levees around the perimeter of Natomas. We know how high  
21   we need to bring them on the cross canal, the Sac River.  
22   The American River did not appear to need raises. The  
23   Natomas east main drainage canal south of the pump station  
24   at Dry Creek appears to be high enough between the pump  
25   station at Dry Creek and the mouth of the cross canal up

1 here.

2 We expect the present Grove Creek canal would need  
3 some raising. And we're not sure about the Natomas east  
4 main drain between Sankey Road and the pump station, how  
5 much that will be raised. Some of that will be determined  
6 by DWR as they proceed with their levee investigations.

7 MEMBER RIE: And when are you hoping to get the  
8 permit?

9 MR. BASSETT: We don't anticipate raising levees  
10 until the 2008 construction season.

11 So that allows your Board and our Board and the  
12 general folks in the area to decide on the levee raising  
13 and how and when that is done.

14 MEMBER RIE: Okay. So that's not the permit  
15 that's going to come back before the Board next month?

16 MR. BASSETT: I guess it's up to your Board how  
17 you want to issue the permits. We applied for two of them  
18 so that you could act on the specific permit to construct  
19 a cutoff wall before or after or at the same time as the  
20 programmatic permit came before you. We wanted to make  
21 sure that you are aware of the overall program as well as  
22 the individual project, which we're anticipating to build  
23 this year.

24 MEMBER RIE: Thank you.

25 Mr. Bradley, the way they are structuring their

1 permits, would we be approving the basic concept for the  
2 whole program at the time we approve the seepage berms?

3 CHIEF ENGINEER BRADLEY: I'm not sure I understand  
4 your question. But I think there's a permit that's going  
5 to be coming before you in the next couple of months.  
6 That's a piece of the programmatic permit of the overall  
7 program here.

8 MEMBER RIE: Are we buying into the whole program  
9 when we approve that permit?

10 CHIEF ENGINEER BRADLEY: No. That permit will not  
11 be before you for the overall program.

12 VICE PRESIDENT HODGKINS: John, is that -- is that  
13 your understanding as well? What is the programmatic  
14 permit? Let me ask Steve first.

15 CHIEF ENGINEER BRADLEY: Okay. It outlines  
16 basically what he was talking about here, all the work  
17 they propose to do without all the design drawings,  
18 details, everything that you would need to issue a  
19 construction permit.

20 But you are approving the overall approach to  
21 solving the problem before you, for flood protection. But  
22 you haven't seen what they are going to do, where, and  
23 when. And so as -- normally what you would like to see is  
24 approval of the programmatic permit, and then they come  
25 forward with each piece as they do them. So it's all

1 consistent with the programmatic, but then you have all  
2 the design drawings, construction estimates and so forth,  
3 before you, at that time, for each piece or each phase.

4 Does that make sense? Or does anybody else have  
5 any questions on that?

6 MEMBER RIE: So we're just going to approve one  
7 piece without approving the whole program or concept?

8 CHIEF ENGINEER BRADLEY: That's correct. Very  
9 similar to what we've done for River Islands; they call it  
10 CPM or Construction Project Modification.

11 But you approve the levee widening and a piece of  
12 that before they have the overall permit in place for  
13 everything.

14 MEMBER RIE: Okay.

15 CHIEF ENGINEER BRADLEY: It is done -- my  
16 preference would be to get an overall agreement on the  
17 programmatic. There's substantial risk in the Natomas  
18 basin. There's also substantial issues of the  
19 programmatic of raising levees, that we kind of need to  
20 work through. All the issues that are coming forward to  
21 this Board over the next five to ten years with all the  
22 money that's available for flood work.

23 MEMBER BURROUGHS: I have a couple -- three  
24 questions that kind of jump around.

25 On your presentation, you have a slide that has a



1 home. And you stated that because of the home and not  
2 having enough room to work, that you were limited on the  
3 approach to the problem and would need to use the deep  
4 cutoff wall.

5 MR. BASSETT: Yes. On portions of the Natomas  
6 area, along Garden Highway, as well as globally, most of  
7 the Pocket area, you are in the same situation. The  
8 houses are right up next to the toe of the levee. This is  
9 actually a little more of an exaggeration. Sometimes you  
10 have the, you know, house being right here and you barely  
11 have your 10 feet in that area.

12 But you are limited, in this case, to a relief  
13 well, if you have the area to run a drainage system for  
14 the relief well. But the most practical activity, if you  
15 can get down to this clay and silt layer, is to do a  
16 cutoff wall in that area.

17 MEMBER BURROUGHS: And how much room would you  
18 need to work if you didn't have to do the cutoff wall.

19 MR. BASSETT: To construct a seepage berm?

20 MEMBER BURROUGHS: Yes.

21 MR. BASSETT: That varies depending on the seepage  
22 issues. For a 20-foot high level, probably your minimum  
23 distance is four times the height of the levee, which  
24 would be 80 feet, plus maybe 20 feet of O&M in that area.  
25 If the seepage is fairly high, you may need a 300- or

1 400-foot-wide berm. So it varies depending on how much  
2 the seepage in that area exceeds the allowable radiance.

3 MEMBER BURROUGHS: I just bring it up, because we  
4 have homes that were wanting to be built right up next to  
5 the levees. And I brought up this point that homes next  
6 to the levees is a problem when you go to repair the  
7 levees.

8 And you know, I have been told that it's fine the  
9 way it is. And I don't agree.

10 So I heard you say that today.

11 The other question that I have now, jumping to the  
12 slide that you have there. Earlier today, we had a  
13 presentation on issues of problems with levees. And it  
14 was stated that the issue is always overtopping. And your  
15 slide there depicts why; because the seepage then makes  
16 everything sink down and the water over the top.

17 So I was -- that explains a lot from an earlier  
18 comment today.

19 MR. BASSETT: I think John Hess indicated that  
20 they haven't really lost the levee on the rapid drawdown  
21 failure. It's been either seepage below the crest,  
22 through seepage or underseepage as well as some areas  
23 simply go overtopped, so that the failure mechanism is  
24 overtopping and/or just failure of the design work.

25 MEMBER BURROUGHS: Thank you.

1           PRESIDENT CARTER: Okay. Any other questions for  
2 Mr. Bassett?

3           VICE PRESIDENT HODGKINS: I want to go back to the  
4 procedural questions.

5           Now, Steve, what I heard you say is you thought it  
6 might be easy to give a permit for the seepage berm  
7 because that doesn't involve raising levees. But what I'm  
8 trying to understand is how that relates to a programmatic  
9 permit that does involve raising levees. And I'm also  
10 trying to understand SAFCA's need for that programmatic  
11 permit.

12           And are most of you -- the whole issue of  
13 hydraulic mitigation and levee raising is just a really  
14 tough issue to work through; okay? So it may take a  
15 while.

16           So to the extent that we might be able to avoid  
17 having to address that and still allow you to go forward  
18 and make public improvements, that makes a lot of sense to  
19 the Board members, I think sitting up here. So I'm trying  
20 to see, is that an acceptable approach to SAFCA, and is  
21 that an acceptable approach to you?

22           CHIEF ENGINEER BRADLEY: If I understand what you  
23 are asking me is, how does the proposed permit, that's  
24 going to be coming before the Board in the next couple of  
25 months, relate to the programmatic permit? It would be a

1 part of it. If you could issue the programmatic permit,  
2 they could do their seepage berm as well as raise the  
3 levees.

4 Right now, they are only doing the seepage berms  
5 without the levee raising, because the Board has not  
6 addressed that issue. Like I said, the best way to do  
7 these is to have programmatic permit that you know what  
8 they are going to do overall and agreed to. In this case,  
9 we're trying to move forward because there's some sticky  
10 issues with the programmatic, with work they can do this  
11 year, before they actually need a decision on the  
12 programmatic.

13 VICE PRESIDENT HODGKINS: Okay. So let me -- in  
14 effect, what I heard you say is, you know, in a different  
15 world, we'd say your segmenting the permit. You would  
16 give a permit for the first piece of the work that you  
17 would say is part of an overall programmatic permit, but  
18 we would not, at that point in time, have said we -- we  
19 are approving the entire conceptional project; is that  
20 correct?

21 CHIEF ENGINEER BRADLEY: That's correct. You are  
22 doing work that isn't in conflict with what we have to  
23 wrestle with at the moment.

24 VICE PRESIDENT HODGKINS: Is that okay?

25 MR. BASSETT: That's why we submitted the permits

1 the way we did, to allow the first -- work which --  
2 although under CEQA aspect, you may say it's segmenting,  
3 but this has individual improvements to the levee system  
4 regardless of whether you raise the levee in the future or  
5 not.

6 VICE PRESIDENT HODGKINS: I understand.

7 MEMBER BURROUGHS: That's my next question about  
8 raising the levee. Legally, that is a big issue, and  
9 there aren't any numbers that are actually attached to the  
10 slide, but the words that say "raise levee" is a concern.

11 And I was wondering if there's any comments about  
12 that, from staff, or legal advice, about this concept of  
13 raising levees?

14 CHIEF ENGINEER BRADLEY: Well, I think we've  
15 pointed out that there are some concerns here. I think we  
16 need to work through them and make sure that we are all  
17 okay. There are -- is existing legislation, as John said,  
18 out there, for projects -- to authorize projects to raise  
19 the levee. SAFCA does have some authorization to  
20 implement the project prior to funding by the Board or the  
21 State. I think along with legal counsel, we'll have to  
22 arrive at a decision as to how we -- as to whether that's  
23 correct and how we can proceed with that. And when we  
24 bring that forward, we will be addressing that issue.

25 GENERAL MANAGER PUNIA: Jay Punia. I believe it

1 would have been best to bring the conceptual permit first  
2 and then the subsequent. But based upon the request from  
3 SAFCA, that they want to go to construction this spring or  
4 summer, so we will be bringing that Natomas Cross Canal,  
5 the strengthening in place, without raising to the Board;  
6 and then subsequently once we settled on the levee raise  
7 issue, we will be bringing the overall project before the  
8 Board.

9 PRESIDENT CARTER: Jay, the approximate timing on  
10 the levee raise issue, if you could bring everybody up to  
11 speed on that.

12 GENERAL MANAGER PUNIA: We are aggressively  
13 working on that issue. The year-end report, there are two  
14 aspects to the levee raise issue. One is an analysis of  
15 what was needed, and the other is a legal opinion. We  
16 have hired a consultant, David Ford, Inc., and David and  
17 his staff are working aggressively. They interviewed  
18 people from Department, Reclamation Board, and several  
19 outside were experts in this area. And the first draft of  
20 the report has been compiled and we are sharing it with  
21 the technical subgroup next week.

22 Once the report is in a reasonably good shape, we  
23 will be -- conduct a public hearing and then we will be  
24 bringing to the Board, before finalizing that report.  
25 That report will be a technical tool for the Reclamation

1 Board staff. And that report will also give some  
2 guidelines for the applicants of what's expected from  
3 them.

4 And then simultaneously, the Department and the  
5 Rec Board legal staff is working on -- to come up with a  
6 legal opinion. And the hope is that by end of February or  
7 March, we may have these two documents for the Board to  
8 look at.

9 Scott, you may have some more on the legal  
10 opinion.

11 LEGAL COUNSEL MORGAN: Not at this time.

12 PRESIDENT CARTER: All right. So Mr. Bassett, my  
13 question is that -- recognizing that the Reclamation  
14 Board, in terms of proceeding with this process of doing  
15 pieces of the overall programmatic plan, the Board does  
16 not endorse the overall programmatic plan if some pieces  
17 are not approved when applied for. The implications for  
18 that is there will be portions of the levees that will not  
19 be -- not reach 200-year level protection. And SAFCA can  
20 live with that.

21 MR. BASSETT: I'm not sure we can say if we can  
22 live with that. If there are any issues you have  
23 anticipating the raising, which may be an issue, as  
24 opposed to the cutoff walls or the seepage berms, which  
25 don't really have any hydraulic impacts, we would look at

1 the reasons why you would not be willing to raise. And  
2 there's potentially some other things we could do, to  
3 still get this district to 200-year.

4 The recommendation from the DWR staff and the  
5 Corps is that we have three feet of freeboard on a  
6 200-year program to call that 200-year level of  
7 protection.

8 If -- you know, again working with both the State  
9 and the Corps agency, how do you count 200-year? Because  
10 FEMA only addresses 100-year level. There's really no  
11 national standards for what is 200. The Corps and FEMA  
12 are going into much more involved risk and uncertainty  
13 analysis. So at that point, when -- I believe the Corps  
14 will use some sort of risk and uncertainty analysis. It  
15 may be that we get by with, you know, a shorter raise but  
16 still need to raise above the 200-year. I'm not sure that  
17 either the state or the Corps wants to leave this basin  
18 with something less than 200-year.

19 So that's a discussion we have to have.

20 MR. WASHBURN: Could I guess that issue as well?

21 PRESIDENT CARTER: Yes.

22 MR. WASHBURN: Tim Washburn, agency counsel for  
23 SAFCA.

24 Both SAFCA and the Rec Board -- the Rec Board  
25 policy is 200-year protection, we know, as well. So we



1 are assuming that the Rec Board will work its way through  
2 the issue and figure out a way to achieve that flood  
3 protection goal. So we fully anticipate, we are going to  
4 provide a 200-year flood protection to Natomas, with you.  
5 We understand that the Rec Board is having a discussion  
6 about how to do that, in a way that's fair and equitable  
7 in this valley.

8 But we fully expect that your intention, as well  
9 as ours, which has been the case since 1986, is to bring  
10 this area to a 200-year flood protection, until you change  
11 that policy or we change ours. But it's imbedded in our  
12 joint power authority and in our organic creation that  
13 SAFCA is going to provide 200-year flood protection to all  
14 of the major floodplains in Sacramento. And we intend to  
15 do that. And we expect you will as well. That's your  
16 policy, as well as we understand it.

17 VICE PRESIDENT HODGKINS: It is our policy with  
18 respect to Natomas. Because there is a resolution, where  
19 the Board is on record, as requiring 200-year. That's the  
20 only one where there's a resolution.

21 MR. WASHBURN: I believe there is also a Board  
22 policy with respect to American River of 200-year  
23 protection.

24 VICE PRESIDENT HODGKINS: Okay. That could be.

25 CHIEF ENGINEER BRADLEY: That's -- the one I'm

1 familiar with is -- it wasn't a policy. It was just  
2 encouraged to go for 200-year. But that's the one on the  
3 American river.

4 PRESIDENT CARTER: That was in relation to voicing  
5 support for the construction of the Auburn Dam.

6 CHIEF ENGINEER BRADLEY: That's correct.

7 PRESIDENT CARTER: Wherein the Reclamation Board  
8 said that they were in favor of 200-year protection for  
9 the American River Watershed.

10 CHIEF ENGINEER BRADLEY: That's correct.

11 VICE PRESIDENT HODGKINS: But the one for Natomas  
12 is after the failure of Auburn Dam. So the Board is on  
13 record. So it is a tough issue.

14 But Mr. Washburn, with some timing on what your  
15 expectation is at 200-year, if you are expecting us to be  
16 able to say, "Yep, we're going to be okay with that," in  
17 the next six months? I think that's an optimistic  
18 assessment, if you expect us to get there. Maybe in a  
19 year, yeah, I think that's no problem at all.

20 PLANNER TIMBOE: Well, we would obviously expect  
21 six months to be a more likable number there. As John has  
22 indicated, we have a way to begin construction without  
23 raising this issue. But this is not an issue -- I don't  
24 believe the Legislature is going to let this issue sit  
25 around for another year, but we will have to wait and see

1 what happens.

2 But our expectation is that this state, in  
3 thinking about its state plan of flood protection, from  
4 everything we have understood, talking from all folks,  
5 that 200-year protection is the appropriate and minimum  
6 standard for highly urbanized floodplains, and that will  
7 be state policy and we will figure out how to get there.  
8 That's our expectation.

9 VICE PRESIDENT HODGKINS: As you know, with at  
10 least with respect to me, you are preaching to the choir.

11 But I would also, just so you understand totally  
12 the things that are going on, you have been given this  
13 report, and this report is, in effect, the engineer's  
14 report from the assessment district. The ballots are  
15 mailed in March.

16 MR. BASSETT: That's not the actual engineer's  
17 report. We've got that, if you would like a copy of it.

18 VICE PRESIDENT HODGKINS: Mr. Washburn gave me a  
19 copy of it. It is publicly released today. SAFCA is  
20 going to go through a process and mail ballots in March;  
21 is that correct?

22 MR. BASSETT: Yes.

23 VICE PRESIDENT HODGKINS: So I assume you don't  
24 allow 30 days for people to return the ballots?

25 MR. BASSETT: 45-day process.

1           VICE PRESIDENT HODGKINS: 45 days.

2           So while we're struggling with this, they are  
3 going to be trying to go out and convince the property  
4 owners to vote in favor of a flat tax for improvements.  
5 So that's going on here, not directly our issue, but I  
6 think, certainly, we all want to see improved public  
7 safety, so we're going to have to be aware that that's out  
8 there as we work our way through this.

9           MEMBER RIE: Mr. Punia, I know that SAFCA has been  
10 before our Board. I think it was February of 2006,  
11 talking about this same issue. And you know, they have to  
12 approve this project as well. So they are struggling with  
13 the same issues we're struggling with. So I was  
14 wondering, could we include them in that technical group,  
15 to look at the 200-year flood protection?

16          GENERAL MANAGER PUNIA: I'm assuming you are  
17 referring to the hydraulic analysis. They are -- our  
18 consultant, David Ford, had a lengthy discussion with  
19 SAFCA staff, and their comments are included in our  
20 report.

21          MEMBER RIE: Okay. So we are coordinating with  
22 SAFCA?

23          GENERAL MANAGER PUNIA: Yes.

24          PRESIDENT CARTER: Any other questions for  
25 Mr. Bassett on the overall programmatic permit?

1           Let's move on to Natomas Cross Canal, Phase 1  
2 improvements.

3           (Thereupon an overhead presentation was  
4 presented as follows.)

5           MR. BASSETT: This is the specific permit for the  
6 first project, given a similar number, 18159-1. And this  
7 would be for the first phase of the Natomas Cross Canal  
8 levee improvement.

9                               --o0o--

10          MR. BASSETT: Again, the Natomas Cross Canal is at  
11 the north end of the district. RD 1000, separating RD  
12 1000 with RD1001 to the north of the cross canal. Cross  
13 canal receives drainage from actually the Placer County  
14 and Sutter County, both Lincoln and Roseville and portions  
15 of Rocklin drain through this area, collect at the mouth  
16 of the cross canal, and then flow into the Sacramento  
17 river.

18                               --o0o--

19          MR. BASSETT: Again, our design criteria are three  
20 feet of freeboard for the 200-year program. The  
21 alternatives; we have looked at cutoff walls, seepage  
22 berms and relief wells, and other site-specific repairs.  
23 Again, particularly at Highway 99/70, where the bridges  
24 that go across the canal make some flood control  
25 improvements there, somewhat more difficult to install.

1           We have potential need for some erosion site work  
2   on the cross canal. We are looking at that as part of our  
3   final design. And that will be included in our Phase 2  
4   work. We looked at a setback levee in this area, but  
5   overall, it's not recommended. And I think on Item 10,  
6   when we get to that, there's another handout which will  
7   address what we looked at as far as the setback levee.

8                               --o0o--

9           MR. BASSETT: Our Phase 1 improvements are on the  
10   westernmost 12,500 feet of the levee, in this area,  
11   beginning at the mouth of the cross canal, wrapping  
12   slightly around the Sacramento River for continuity and  
13   not having to bend around on the cutoff wall, going up the  
14   cross canal merely to the Natomas Mutual Water Company's  
15   northern main pumping plant.

16                              --o0o--

17           MR. BASSETT: You can see some of the land use in  
18   the area. Here, it is mainly rice agriculture in these  
19   fields. But also there is a large habitat mitigation area  
20   to address giant garter snake mitigation for the Natomas  
21   Habitat Conservation Plan. There's a couple of deep  
22   channels, drainage canals, and irrigation canals that come  
23   along the toe of the levee.

24           These canals are about eighty to a hundred feet  
25   away from the toe of the levee, which would meet the

1 overall setback criteria, but there's still high  
2 antigrading in the bottom of those canals. So you have to  
3 look at that work as well as underseepage under the levee  
4 itself.

5 PRESIDENT CARTER: Mr. Bassett?

6 MR. BASSETT: Yes?

7 PRESIDENT CARTER: Maybe if you could just go back  
8 one slide, to your Phase 1 improvement reaches.

9 Can you tell me, on the east side of this, the  
10 east side canal and the Pleasant Grove creek canal, what's  
11 the topography? What's the drainage? Does the Pleasant  
12 Grove canal -- creek canal drain into the east side canal  
13 and the cross canal, or does that drainage head southeast?

14 MR. BASSETT: Okay. The Pleasant Grove Creek  
15 canal, and the Pleasant Grove Creek levee, this starts at  
16 Sankey Road here, collects drainage from the Pleasant  
17 Grove Creek. That drainage comes up against the east  
18 levee of RD 1000 and flows north into the cross canal.

19 In RD 1001, Auburn Ravine, Orchard Ravine --  
20 there's another slough that's in there, I can't  
21 remember -- but that comes up against RD 1001's east  
22 levee, flows south to the cross canal, and goes out to the  
23 Sacramento River again, this way.

24 PRESIDENT CARTER: Thank you.

25 MR. BASSETT: The cross canal flows from northeast

1 to southwest.

2 PRESIDENT CARTER: Thank you.

3 --o0o--

4 MR. BASSETT: Okay. This slide -- again, we have  
5 handouts if you want to look at it in more detail later;  
6 but it has our design water surface profile. The green  
7 line here is the top of the south levee. And the  
8 somewhat-pinkish/purplish line here is the top of the  
9 north levee. You can see, both of these levees kind of  
10 vary a little bit, up and down, at this scale. You know,  
11 this looked like a wide variation, but over the length of  
12 the levee, it's only a couple of tenths of a foot. But  
13 right now, more or less, the north levee and the south  
14 levee are at approximately the same elevation. They both  
15 go up kind of around where Highway 99 is, and a few other  
16 locations.

17 Here, I think this is the pump station where the  
18 levee goes up higher to get the pipes up and over the  
19 levee.

20 Our Phase 1 cutoff wall, again, would not raise  
21 the levee at all. It would install a 75- to 80-foot-deep  
22 wall in the levee, in the levee foundation to silts and  
23 clays.

24 This is an existing seepage berm that was  
25 constructed by SAFCA, partially by SAFCA, in 1996 but



1 after some additional work that was undertaken by RD 1000  
2 after the 1986 storms.

3 The Phase 2 work, with the cutoff wall in reaches  
4 1, 2 and 3 would install a cutoff wall in reaches 4, 5, 6,  
5 and 7. At that time, which we anticipate to be in the  
6 2008 to 2009 timeframe, and assuming your Board approves  
7 raising the levee, we would raise the levee and flatten  
8 the back slope to a 3-to-1 slope, which is slightly  
9 steeper than what is shown in the slide. But over time,  
10 our levee integrity program would come in and flatten that  
11 slope even more.

12 --o0o--

13 MR. BASSETT: We show this -- this is actually the  
14 cross canal north levee as being Phase 3. Part of WRDA  
15 1999, when Congress and the Legislature authorized and  
16 approved raising these levees, we also had the north levee  
17 in the cross canal raised so that they had the same  
18 minimum freeboard amount.

19 And this drawing here, although not quite as  
20 pretty a picture as the other ones we had for SAFCA, what  
21 I wanted to show was the Board's preliminary design for  
22 the improvements on the cross canal north levee. And we  
23 are working with RD 1001, with the state, our reclamation  
24 board participants in the American River Common Features  
25 Program, and the Corps to have this work continue to be

1 included in the WRDA 99 funding mechanisms and activities  
2 so that this work will be done when RD 1001 is a local  
3 cost share to the state and to the Corps for that program.

4 --o0o--

5 MR. BASSETT: Again, implementation schedule, Item  
6 10 today, as the Section 104, Credit Request, we plan on  
7 issuing our drawings for bid in March. Hopefully, the  
8 Reclamation Board permit for this first phase of work is  
9 also issued around the same time.

10 I hope to get a 104 letter back from the Corps by  
11 May, at which time we would award the first contract.  
12 Construction would then begin about a month after that;  
13 with the contractor, between May and June, doing his mixed  
14 designs on the cutoff wall work; having the cutoff wall  
15 work completed somewhere in September; the levee rebuilt;  
16 and then the final close-up of the Phase 1 project; and  
17 clean up of the site done in November.

18 --o0o--

19 MR. BASSETT: And with that, that's the end of the  
20 cross canal Phase 1 request. Were there any questions on  
21 this item?

22 VICE PRESIDENT HODGKINS: Could we go back and  
23 look at the schedule for a second? So you are looking for  
24 a permit in March?

25 MR. BASSETT: We would like to include the permit

1 so that a contractor has permit conditions that we will  
2 hold him to and the Rec Board inspectors will hold him to,  
3 in the construction package. Whether it's issued as final  
4 by them, we would like to have conditions, but we need the  
5 permit before we begin work.

6 VICE PRESIDENT HODGKINS: The -- this program is  
7 in some ways like the Three Rivers program? Right now, I  
8 believe there's still a lot of development and building  
9 permits going on out there, assuming FEMA comes in and  
10 issues things that they need to take care of.

11 I think the Board should begin to think about  
12 forming a committee to deal with this project, like you  
13 have with the Three Rivers project. Because at some  
14 point, I think you are going to want to think about what  
15 kind of conditions you want to put on a program, where, in  
16 effect, you are granting a permit for work in an area that  
17 doesn't even have hundred-year flood protection yet.

18 Again this is just me thinking. But I'm thinking,  
19 we treat it in many ways like we have the Three Rivers  
20 project. Now I don't think I can sit on that  
21 subcommittee. I mean, I would be happy to do it, but you  
22 heard me earlier. And that's the way I thought for  
23 several years. And I still think that way sometimes.

24 So you will have to be thinking about that. And  
25 then the other thing I would ask is, you know, given the

1 March date for the first pieces of the programmatic  
2 permit, Steve, what kind of issues do you have? And what  
3 can the Board do to help you with being in a position  
4 where you may be able to make a recommendation by that  
5 time?

6 CHIEF ENGINEER BRADLEY: You're referring -- you  
7 are referring to the programmatic decision -- decision on  
8 the programmatic permit?

9 MEMBER BURROUGHS: No. Just the cross canal.

10 CHIEF ENGINEER BRADLEY: Just this permit coming  
11 forward?

12 VICE PRESIDENT HODGKINS: Yeah.

13 CHIEF ENGINEER BRADLEY: I haven't looked at  
14 everything, but it's pretty standard work. If it wasn't  
15 for being part of the overall project, it might not even  
16 necessarily have to come to the Board for approval.

17 VICE PRESIDENT HODGKINS: Okay. Okay. So maybe  
18 then the better thing to do would be to give you a little  
19 bit of time and have your work to the general manager.  
20 And then take a look at that in more detail and come and  
21 sort of give us, at the February meeting, what you think  
22 is a reasonable schedule, perhaps, for getting through  
23 that first permit, what help you would need in order to  
24 issue it by March, which doesn't give you much time, but  
25 it lets you look and see if -- if that's a no-brainer,

1     that's great. That helps them get off, on that.

2             But that will start to give the Board and SAFCA  
3     some idea of what is going to be -- I see this as a  
4     complicated permit. Maybe it's not.

5             CHIEF ENGINEER BRADLEY: The one coming forward, I  
6     don't consider quite as complicated. I think the issues  
7     are the overall programmatic permit and what you can do as  
8     a Board, or what you would want to do as a Board and what  
9     you want to obligate the State for. Teri asked whether we  
10    were coordinating the SAFCA hydraulics. The more  
11    pertinent question is, has SAFCA been coordinating with  
12    us, and they haven't on this. It could have smoothed this  
13    quite a bit, if they were coordinating with us.

14            This is an awful big project to digest in a month  
15    or so. And do I throw everybody else out, that I have  
16    been trying to work on? And that's what's going to  
17    happen, I suspect, that everybody else gets thrown out the  
18    door for a month or six weeks until we get through this.

19            I guess that would be a Board direction, if they  
20    want to make this the priority or not.

21            MEMBER BURROUGHS: That's where we need to address  
22    the issue of additional staff.

23            CHIEF ENGINEER BRADLEY: Well, it's not so much  
24    additional staff. But like I said, a project like this,  
25    you could have scheduled for it if you would have known,

1 more or less, when it was coming. You could have allowed  
2 for some time. When it just all of a sudden drops in your  
3 lap, it's a big chunk to address.

4 And there's some significant issues. I think the  
5 permit coming forward probably isn't that bad. But it's  
6 only a very small piece of all of the work that they want  
7 to do. And in my opinion, that absolutely needs to be  
8 done for Natomas.

9 But they have the same issues that Three Rivers  
10 had. With the 19 -- the original top of levee design,  
11 they can pass the 200-year. They just don't have the  
12 freeboard.

13 So the question is: Does the Board say -- does  
14 the Board make a decision to change the plan of flood  
15 control, as it is now, and increase the design flows  
16 through a certain specific region without assessing the  
17 impacts to the system as a whole? I'm a little bit  
18 concerned with that, in my own opinion. I'm not sure part  
19 of what we want to do today is to say how to do some of  
20 that stuff, but I don't think that's exactly what's going  
21 to come out of that.

22 But that's a question before the board: Do you  
23 want to change your plan of flood control and obligate the  
24 State for whatever impacts that causes elsewhere in the  
25 system, even though they can pass the 200-year flow

1 without the 3 feet of freeboard when there is no standard  
2 for a 200-year FEMA flow -- approved FEMA flow.

3 MR. BASSETT: President Carter, if I might address  
4 that just a moment. The Congress as well as the  
5 Legislature, with the Water Code provisions that are in  
6 the first presentation, have already improved the raises  
7 under Water Code 12670.14. They authorize the state. And  
8 they authorized -- 7716 authorized SAFCA to move forward  
9 with those raises.

10 So that's, you know, kind of the viewpoint that we  
11 have, is these are authorized raises, and the State  
12 Legislature as well as the Congress has modified the State  
13 Plan of Flood Control for Natomas.

14 PRESIDENT CARTER: Okay. My understanding is that  
15 we have talked about the programmatic permit. We're on  
16 the Phase 1 improvements of the cross canal, which is not  
17 addressing levee raises. We will be addressing levee  
18 raises at future meetings, I'm sure. So unless there's a  
19 burning desire to have a lengthy debate this afternoon, I  
20 would like to move on with that.

21 Are there any other questions for Mr. Bassett with  
22 regard to the Phase 1 improvements to the Natomas Cross  
23 Canal.

24 MEMBER BURROUGHS: I just want to reiterate the  
25 importance of communication and having information

1 presented to our staff in a timely way so that all the  
2 information can be reviewed so we can make a decision.

3 Thank you.

4 MR. BASSETT: That's what we are trying to do in  
5 advance with the information item, and then have the staff  
6 and the Board able to act on it at a later time.

7 PRESIDENT CARTER: Okay. Steve?

8 CHIEF ENGINEER BRADLEY: There was one other  
9 issue: This project is basically a part of the American  
10 River Common Features Project for which the Board and CEQA  
11 lead. The SAFCA is going to become or wants to be the  
12 lead, and sort of has been the CEQA lead, for only a  
13 portion of it.

14 I think there have been some questions about  
15 whether you can be a CEQA lead for a portion of, or  
16 whether you are either CEQA lead or not CEQA lead.

17 It's not my question, but I think that is a  
18 question before, that has to be addressed.

19 SECRETARY DOHERTY: This is part of the American  
20 River?

21 CHIEF ENGINEER BRADLEY: Common Features Project.

22 LEGAL COUNSEL MORGAN: Let me kind of address  
23 that. This was brought in. SAFCA had this EIR prepared  
24 for this project, which our staff pointed out, bore a  
25 striking resemblance to the project proposed under



1 American River Common Features.

2           It is not true what Mr. Bassett is suggesting,  
3 that Congress and the state Legislature have authorized  
4 this work. They have authorized similar work, but that  
5 authorization is no longer good because there's not enough  
6 money for it.

7           And if -- if this were that project, the Board  
8 would be the lead agency. And we wouldn't be issuing a  
9 permit. We would be having before the Board the question  
10 of approving an LPCA with SAFCA. That's not what's going  
11 on. Instead, SAFCA is saying, on their own, to expedite  
12 the properties, to take the exact same work and say,  
13 "We're going to go ahead and we're going to do that work."

14           And we don't have an intellectual property  
15 interest in those projects, as you've described. But  
16 we're not doing them. So if someone else wants to go do  
17 them, well, that's fine. If they want to be the lead  
18 agency on that, that's fine too. And that's kind of where  
19 this rests.

20           So in that sense, that is not really part of  
21 American River Features. Now, that does not mean that  
22 down the road, the state and the federal government can be  
23 imposed upon to incorporate into that. And I know that's  
24 what Item 10, which has been moved to after this,  
25 addresses, is the request for federal credit in the

1 anticipation that the federal government would include  
2 this as part of the project.

3 But as it comes to us now, this is SAFCA doing  
4 what any applicant seeking a Corps permit does. They have  
5 a project, and they want Board provision to do this.

6 So the fact that, you know, if Congress and the  
7 Legislature want to authorize a 200-year protection by  
8 raising levees, they do that; that trumps the Board.  
9 Board then just approves that project. When a private  
10 applicant comes in -- or private SAFCA -- a regional  
11 agency like SAFCA comes in and wants to do it, they have  
12 to convince the Board that this project, standalone, is a  
13 good idea. So that's why we have that sort of -- it's  
14 like --

15 VICE PRESIDENT HODGKINS: Although I think -- and  
16 it may come as a surprise, but this project raising,  
17 specifically raising the cross canal levees and the  
18 Sacramento River levee is approved, both by the state  
19 Legislature and the U.S. Congress. It is authorized?

20 LEGAL COUNSEL MORGAN: Yeah, I don't think it is  
21 authorized for SAFCA. Are they entering into an agreement  
22 with the Corps to do the work as a nonfederal sponsor  
23 without the Board?

24 MR. BASSETT: That's part of what we need to work  
25 out with the state is, do we become a nonfederal sponsor

1 directly to the Corps or, under provisions of the Water  
2 Code making assurances to the state? We move forward with  
3 the project as the Water Code allows.

4 PRESIDENT CARTER: I'm a little bit confused and  
5 also concerned. Some of these comments that have just  
6 come up suggest that we really haven't thought through how  
7 we're going to do this. And we're expecting an action by  
8 the Board in the next couple of months.

9 And I'm also confused because we just talked about  
10 the Phase 1 Levee Improvement Project for the Natomas  
11 Cross Canal. And then Item 10 specifically says, "This is  
12 an American River Watershed Common Features Project,"  
13 to -- for the Board to send a letter to the Corps  
14 requesting -- or recommending credit be given to SAFCA  
15 for -- under 104, for work to be done on this project.

16 So is this American River Common Features or is it  
17 not?

18 MR. BASSETT: There's several ways to answer that.  
19 And it depends.

20 PRESIDENT CARTER: Yes or no would be good.

21 MR. BASSETT: I know. Unfortunately, we never get  
22 those yes/no projects.

23 The raises are definitely authorized. That's some  
24 of the statute we presented. The issue that is not  
25 authorized, and what gets us out of the WRDA 1986 section

1 and 902 cost provision are outside of the allowable creek  
2 and project cost by bringing the deep underseepage issue  
3 into the Natomas basin. The raises are definitely  
4 authorized. There was money provided by Congress or the  
5 authority was there to approve that project.

6 The question of whether it's approved or not  
7 approved, under Common Features, is bringing the  
8 underseepage issues in, which takes a 25-million-dollar  
9 project and moved it up, you know, in the 2000 timeframe,  
10 to \$250 million. Now we're up to \$414 million.

11 So it's the underseepage issues, which the Corps,  
12 under their General Reevaluation Report, is going back and  
13 saying, okay, the scope of the project has changed.  
14 Therefore, we go back to Congress to get revised authority  
15 to undertake not just the raises, but the underseepage  
16 issues and also the funding that goes along with that.

17 And what we're asking for, under the 104 credit  
18 request, is: Should Congress, after the Corps delivers a  
19 report to Congress, agreed with SAFCA that that is work  
20 that should be done; that we will get credit for the work  
21 that we have accomplished ahead of Congress appropriating  
22 money for it.

23 So it's the 104 request -- it definitely is under  
24 American River Common Features for the Natomas elements.  
25 Whether or not this project itself is in part of the 104

1 request is acknowledging that the underseepage issues have  
2 not yet been authorized. It's just the raises.  
3 Otherwise, you would be under Section 215 or 211,  
4 agreement with the Corps.

5           So the approval is for the Board to send a letter  
6 saying, if Congress and the Corps come around in the  
7 future, saying, yes, this work is needed, yes there's a  
8 federal interest, yes, we would put money towards it, they  
9 would turn around and ask the state for their cost share  
10 the state and/or SAFCA puts up the money that we had  
11 already taken and implemented as the cost share and get  
12 credit for it. So it's more of a financial arrangement  
13 and find of preapproving and letting headquarters in  
14 Congress know, or the Corps know, that locals are  
15 undertaking the program, that they may want to come back  
16 later and want money for them.

17           PRESIDENT CARTER: Mr. Basset, I'm still confused.  
18 And the reason I'm confused is that -- you said that the  
19 American River Watershed Common Features project  
20 authorizes the levee raises, and basically flood failure  
21 or levee failure modes prior to underseepage.

22           But your proposal, specifically in this drawing,  
23 shows that you are specifically going after seepage and  
24 underseepage with deep slurry walls and not doing any  
25 levee raises. So the levee raise is not part of Phase 1.

1 And yet, that's what's authorized under the American River  
2 Common Features Project.

3 So what are we doing here?

4 MR. WASHBURN: It would be fair to say, we  
5 anticipate, based on the Corps' General Reevaluation  
6 Report, that they will expand the scope of the Common  
7 Features Project and raise the cost ceiling. We're going  
8 ahead of them. And when that happens, we expect they will  
9 credit us for what we have done.

10 So it's technically not part of the project right  
11 now, because if you look at the project authorization and  
12 the chief's report and the technical materials and  
13 engineering materials provided to Congress at the time  
14 that they authorized the project, there was no deep slurry  
15 wall included in that project. And then you could say,  
16 "Oh, and it isn't part of the authorized project yet, is  
17 it?"

18 No, in the same way that the deep slurry walls on  
19 the American River weren't part of the project until we  
20 went back, got an authorization from the Corps, or from  
21 the Congress, to raise the cost ceiling and include those  
22 things in the project, because the engineering changed.

23 So we're in an engineering transition. What we  
24 are proposing to do has not yet been authorized by  
25 Congress. We fully expect that it will. And when it is,

1 it will be credited.

2 We also expect the State will join us in moving  
3 forward and protecting Natomas, and will have a keen  
4 interest in getting credit as well. And all we've said in  
5 our discussions with staff is, it seems to make sense for  
6 the State to tender that crediting letter, because they  
7 will be -- a majority of the credit will follow to the  
8 state.

9 Now, we could do it ourselves. We have also  
10 discussed it. SAFCA could submit the crediting letter.  
11 We would be prepared to do that too. But when we ended up  
12 agreeing with staff, the division of labor that we  
13 proposed in that diagram seemed to make the most sense  
14 under the circumstances.

15 But we will both, the State and SAFCA, benefit  
16 from moving ahead of the Corps and protecting the 70,000  
17 people at risk and then getting credit for that  
18 investment, as the full elements of the Common Features  
19 Project are authorized by Congress, based on the Corps'  
20 General Reevaluation. That's the idea.

21 So all we've concluded is, it makes sense for this  
22 division of labor. It doesn't have to be exactly this  
23 division of labor. Other divisions of labor are possible  
24 as well. But this was the one, after a lot of discussion  
25 with staff, we ended up concluding, gee, that makes the

1 most sense.

2 PRESIDENT CARTER: Mr. Washburn, I don't disagree  
3 with anything you have said. However, the American River  
4 Watershed Common Features Project, which you are asking  
5 for a letter from the Rec Board, currently does not  
6 contemplate deep slurry walls, and that's specifically  
7 what you are asking for in Phase 1.

8 MR. WASHBURN: That's correct.

9 PRESIDENT CARTER: And so I have -- there's a  
10 slight disconnect here because, one, the project that  
11 we're sending a letter for does not cover what we want to  
12 do in Phase 1. And number two, I'm not sure that if we  
13 send the letter, are we, in fact, endorsing the American  
14 River Watershed Common Features Project, which includes  
15 levee raises, which the Board hasn't come to an agreement  
16 on that.

17 MR. WASHBURN: What the letter would say -- I  
18 believe the draft exists -- so we can get to this next  
19 item -- is we believe the construction of this slurry  
20 wall, along the westernmost portion of the cross canal,  
21 fits with the general project objectives of the Common  
22 Features Project, that there is likely a federal interest  
23 in this work, and that we believe once it's authorized,  
24 it's entitled to credit. That's all the 102 letter of  
25 credit says. We think there is likely a federal interest



1 here. We think on the basis of that federal interest,  
2 Congress will ultimately authorize this work. And when it  
3 authorizes that work, we will get credit for the  
4 expenditure that we're making. That's all a 102 crediting  
5 letter says -- 104, excuse me.

6 So I mean, we've kind of jumped ahead of that  
7 item. But a 104 credit application assumes you're not  
8 fully authorized. That's the whole purpose of that  
9 section.

10 PRESIDENT CARTER: That's fine. Are there any  
11 other questions for Mr. Kerr [sic] or Mr. Washburn?

12 If not, then what we can do is take a brief recess  
13 and we'll continue with Item 10, and we can talk  
14 specifically about the letter.

15 So we'll take a ten-minutes recess.

16 Thanks.

17 (Thereupon a break was taken in  
18 proceedings.)

19 PRESIDENT CARTER: Ladies and gentlemen, if we  
20 could go ahead and continue.

21 I do have one card here from Mr. Countryman who  
22 wanted to speak on Item 16. I would like to allow that.  
23 And then we'll continue on with Item 10.

24 Mr. Countryman, did you still want to address the  
25 Board.

1           MR. COUNTRYMAN: Joe Countryman, President of MBK  
2 Engineers and speaking for Joe Countryman, not MBK  
3 Engineers.

4           I'm disconcerted to some extent that there are  
5 70,000 people at risk. I'm not hearing the urgency,  
6 either out of the staff or the Board to provide the  
7 protection that's necessary for those people. I don't  
8 know what's happened. You know, Steve says, "Well, gee,  
9 do you really want to raise the levee? You know, you can  
10 pass the 200-year with six inches of freeboard. Do you  
11 really want to do that?"

12           This is a whole new Reclamation Board. I've  
13 worked on many, many projects with the Reclamation Board,  
14 from River Islands, to Stockton, to every place. And the  
15 general manager used to tell us right up front, "You  
16 provide 200-year protection or you are going to have  
17 nothing but trouble with this Board."

18           What happened to that? Where did that go? That's  
19 my comment.

20           PRESIDENT CARTER: Thank you.

21           SECRETARY DOHERTY: Mr. Countryman, I personally  
22 resent that, because I've got to understand before I just  
23 say -- yeah, I would like to protect everybody on this  
24 green earth from fire and flood and whatever else there  
25 is. But at least I want to understand what I'm doing.

1           That's all I ask is, you know, comprehension.

2           MEMBER BURROUGHS: With that, I will also just  
3 like to ditto that comment, that everyone here, on this  
4 Board, deeply cares about public safety. That's our  
5 mission; that's our goal; that's what we are here for;  
6 that's what we are working for.

7           And if people really cared about making sure  
8 things go through, they would present the packets of  
9 information to the Board in a Board packet, and not on the  
10 day of the Board meeting, when, as it's being presented,  
11 we just look at the information.

12           So I hope the message gets sent out very clearly  
13 that information needs to be decided at a Board meeting  
14 needs to be presented to the Board members, in their  
15 packet.

16           And thank you for caring about public safety. We  
17 will work together.

18           MR. COUNTRYMAN: Thank you.

19           PRESIDENT CARTER: Mr. Foley, you had your hand  
20 raised. I had you down for the next item. If you would  
21 like to address on this item?

22           MR. FOLEY: I will wait.

23           PRESIDENT CARTER: Just wanted to make sure.

24           Thank you, Mr. Countryman.

25           Let's move on to Item 10A, which is American River

1 Watershed Common Features Project, Consider Approval of a  
2 Letter to the U.S. Army Corps of Engineers requesting  
3 credit under Section 104 of Public Law 990662 for flood  
4 control improvements within the Project area, along the  
5 south levee of the Natomas Cross Canal.

6 SECRETARY DOHERTY: And then do we go back to 16B?

7 PRESIDENT CARTER: No. We're done with 16B.

8 MR. KERR: Good afternoon, President Carter,  
9 General Manager Punia, Members of the Board. I'm Tim  
10 Kerr. I'm the State's project manager for the American  
11 River Common Features Project. I hope to be able to  
12 clarify this issue a little bit and answer any questions  
13 that you have, with regard to the Rec Board's role or  
14 American River Common Features' role and the work that  
15 SAFCA outlined for you in the previous agenda item.

16 I just wanted to reiterate that the Reclamation  
17 Board is partnering with the Corps, and SAFCA's the local  
18 sponsor in the American River Common Features Project.  
19 It's a very comprehensive project, all throughout the  
20 Sacramento area, to provide flood control via  
21 reconstructing levees.

22 One of the elements of this very large project is  
23 to bring flood control improvements to the Natomas basin.  
24 We started out with that, under the WRDA '96  
25 authorization, so we've known that there was work to be

1 done out there, under Common Features, specifically in the  
2 levee raise. Then in WRDA '99, we added many other  
3 features and the Natomas Cross Canal levee raise.

4 With the development of our understanding of  
5 underseepage, the costs for providing flood control in the  
6 Natomas basin skyrocketed. It went up over ten times, and  
7 Congress said you need to go back and reanalyze the  
8 problem and make sure you're on the right project.  
9 Although we were authorized, they put us into the GRR  
10 mode, which is the General Reevaluation Report, which is a  
11 post-authorization feasibility study. So we are in  
12 feasibility study -- we have been working on it for about  
13 two years now -- to reexamine how to provide flood control  
14 to the entire Natomas basin.

15 This is where there is some parallels to the 104  
16 Credit Request. Section 104 Credit Request is to consider  
17 eligible for credit, any work that could be authorized in  
18 a future project.

19 And since the underseepage work that's being  
20 proposed for Natomas is very likely to be authorized in  
21 the project that the Corps is currently studying in  
22 feasibility, it seems like a very good fit that could be  
23 in a future Common Features Project.

24 So to me, the work that SAFCA is proposing would  
25 very likely consider eligible for Section 104 credit on a

1 future Common Features element of the project.

2 But right now, the Corps' pace for doing a  
3 feasibility study, it's -- it's very meticulous. They  
4 have to do the pre-project conditions. We're currently  
5 launching a subsurface investigation contract this spring,  
6 collecting more and more data to establish the pre-project  
7 for baseline conditions, and then we'll start developing  
8 alternatives. We've got this very sequential  
9 milestone-oriented process for developing the feasibility  
10 of this future flood control project, which is putting us  
11 at getting a new authorization around 2009. SAFCA's work  
12 is significantly more rapidly paced to achieve their goals  
13 of providing the 200-year flood protection.

14 So what they are proposing to do is, very likely,  
15 would be something that the Common Features Project would  
16 do. So right now what we think is prudent at this time is  
17 to forward a Section 104 Request to the Corps so that this  
18 work be considered as eligible for future credit.

19 It's not a done deal at this point. It's just  
20 making them eligible. What it's basically doing is, it's  
21 reserving future opportunities. It's keeping all the  
22 doors open, that this important work could be eligible for  
23 credit.

24 Now, at this time, the staff for the Board hasn't  
25 sufficiently reviewed SAFCA's work to recommend that you

1 support what they are doing or that you not support what  
2 they are doing or to propose any type of Rec Board role in  
3 what SAFCA is doing. But what we are recommending with  
4 this 104 letter is at least get the ball rolling, so that  
5 the Corps has time to examine what SAFCA is doing or  
6 examine what this proposed work is going to do. And then  
7 the Corps can approve that this work can be considered in  
8 the future for credit.

9           So we're just keeping all the doors open. But by  
10 forwarding the letter, we are not at all saying that it's  
11 a Rec Board project or that the Rec Board is sponsoring it  
12 or that we're the CEQA lead. We're not saying any of  
13 that. We're just keeping the doors open that this work  
14 could be considered eligible.

15           And we need to get the response from the Corps  
16 before the work actually commences. So that's why the  
17 schedule is a little pressing at this time. We wanted to  
18 act at our earliest convenience to get the Rec Board to  
19 forward this letter so that the Corps can get started in  
20 the review of the work.

21           Did I help clear any of that up?

22           PRESIDENT CARTER: Yes.

23           Are there any questions for Mr. Kerr?

24           Does everyone have a copy of the letter, the  
25 proposed letter, that was in our packet, under Item 10,

1 for this? The proposed letter that we sent to the Corps?

2 And everybody's had a chance to review it?

3 MEMBER RIE: I move to approve the letter and send  
4 it.

5 VICE PRESIDENT HODGKINS: Second.

6 PRESIDENT CARTER: Okay. We have a motion and a  
7 second.

8 Any discussion?

9 I just wanted to -- actually, yes. What I would  
10 like to do is -- we ought to hear from the public before  
11 we take any action on this item.

12 So Mr. Foley, you did say that you had an interest  
13 in commenting on this.

14 MR. FOLEY: I will take this opportunity. Thank  
15 you, Board. Thank you gentlemen, for the opportunity to  
16 speak.

17 I put my thing in SAFCA. You all have that in  
18 SAFCA. But I would like to comment. I've been observing  
19 everything. I have been through the whole mess. I have  
20 been doing -- following these things, how they transpire  
21 with Yuba County since '04. I'm familiar with it. I've  
22 come to many, many of these boards. I see what happens.  
23 I see the Board has the same thing as Yuba County.

24 You have to watch these guys. You have to control  
25 the process better. You can't let these guys come to you.



1 I mean, it seemed to me that you have been misinformed by  
2 these people, and you are also threatened by them.

3 I'm very familiar with it, because of TRLIA. So I  
4 can speak on it. This is the local agency coming to the  
5 Rec Board, has big plans, I consider them. And as TRLIA  
6 turned out, they were. And then the Board is required,  
7 under the public safety issues they raise up at the  
8 Boards, under some pressures or something -- but the  
9 Board, as I mentioned before, directly here, 70,000 people  
10 and you're my tax money, our dollars. The Board -- from  
11 my experience the Board -- the public needs this Board to  
12 take the heat and let the other agencies carry out the  
13 responsibilities.

14 It's going to be controversial, this flood control  
15 system. And if you are passive in it, they come to you  
16 with their plans. They have designed our flood control  
17 system. Their primary interest is to design our flood  
18 control system. I've been to many, many -- I can speak  
19 with some background.

20 So I would please ask the Board to control the  
21 process more than they have been in the past. They have  
22 the powers. They have everything for it. They have the  
23 purpose. They have the powers. They are coming to you  
24 for the permits. Those permits are your power.

25 And if the process that I'm familiar with, that I

1 have seen, continues, this thing -- this thing being  
2 called the Central Valley Plan of Flood Control is being  
3 designed, by default, by all private interests. There is  
4 development pressure all the time, from everywhere.

5 So the Board doesn't -- who else do we look to?  
6 We've got to find another Board.

7 Thank you. Thank you.

8 PRESIDENT CARTER: Any questions for Mr. Foley?

9 Thank you very much.

10 Okay. Just to kind of kick off our discussion on  
11 our motion that we have before us, in light of the  
12 conversation we had under Item 16, our staff has  
13 recommended that, on line 4 of the proposed letter, if you  
14 look at that, it says, "Sponsor SAFCA's plan to construct  
15 part of the project along the south levee of the." And in  
16 place of "part of the project," we -- the proposal is to  
17 substitute the words "features consistent with that  
18 project." So that line would read, "Sponsor SAFCA's plan  
19 to construct features consistent with that project."

20 MEMBER BURROUGHS: Could you give me one moment.  
21 I'm trying to find the exact letter. I'm fumbling to find  
22 this one here. Okay. Thank you.

23 PRESIDENT CARTER: So the language would read,  
24 under line four, "Sponsor SAFCA's plan to construct  
25 features consistent with that project along the south

1 levee."

2 MEMBER RIE: Is SAFCA okay with that? Do you need  
3 an amendment on the motion?

4 PRESIDENT CARTER: Yes.

5 MEMBER RIE: I move to approve the letter, as  
6 written, with the additional language from staff, as  
7 stated by President Carter and send the letter  
8 immediately.

9 VICE PRESIDENT HODGKINS: Second.

10 PRESIDENT CARTER: And it's accepted by the  
11 second.

12 Any further discussion?

13 SECRETARY DOHERTY: Could you repeat the motion?

14 MEMBER RIE: Okay. I move to approve the letter,  
15 as written, with the amendments proposed, by Mr. Carter,  
16 and to send the letter immediately.

17 SECRETARY DOHERTY: Before you vote, may I read  
18 this to myself, one more time, please?

19 PRESIDENT CARTER: Any other -- other items to  
20 discuss on this? Any questions?

21 Give us a couple moments.

22 (Thereupon a break was taken in  
23 proceedings.)

24 Is there any other discussion? Any questions? Do  
25 people need a little more time, or are we ready?

1           Okay.

2           Mr. Punia, would you call the roll, please.

3           GENERAL MANAGER PUNIA: Vice President Butch  
4   Hodgkins?

5           VICE PRESIDENT HODGKINS: Yes.

6           GENERAL MANAGER PUNIA: Board Member Teri Rie?

7           MEMBER RIE: Yes.

8           GENERAL MANAGER PUNIA: Secretary of the Board,  
9   Lady Bug?

10          SECRETARY DOHERTY: Yes.

11          GENERAL MANAGER PUNIA: Board Member Rose Marie  
12   Burroughs?

13          MEMBER BURROUGHS: Yes.

14          GENERAL MANAGER PUNIA: President Ben Carter?

15          PRESIDENT CARTER: Yes.

16          So the motion carries unanimously.

17          Thank you very much, Mr. Kerr.

18          MR. KERR: Thank you very much.

19          PRESIDENT CARTER: Now we are on to Item 17,  
20   Strategic Plan.

21          Mr. Hodgkins.

22          VICE PRESIDENT HODGKINS: Thank you, Mr. Carter.

23          I'm pleased to report that the Strategic Planning  
24   Committee, which was -- got together with Jay and to  
25   really focus on beginning to develop some information to

1 forward to the Board. Our primary focus here is on the  
2 vision and values. And I think, at least, vision and  
3 perhaps the initial values ought to be come back to the  
4 Board at the next meeting.

5 I think the other thing to think about, in a  
6 strategic planning process, is -- and I'm not sure how  
7 clear this is to the rest of the Board. But in effect,  
8 the Department of Water Resources is moving forward with  
9 the bond expenditure plan. I think that contains inasmuch  
10 of the detail that we really need to consider as part of  
11 our strategic plan. And I think we will be supportive of  
12 that. But I think it's -- there's a lot of information, a  
13 lot of what's already been done in terms of defining what  
14 they believe and what they have recommended to the  
15 Legislature as an expenditure plan for the bonds. And  
16 that will become part, I assume, of our strategic plan.

17 So do we have a commitment to actually bring  
18 forward something, at least in terms of mission, vision,  
19 and values, at the next Board meeting, that we can draft  
20 for discussion.

21 PRESIDENT CARTER: Okay. Any questions of  
22 Mr. Hodgkins?

23 All right. Very good.

24 Item 19, Board Comments and Task Leader Reports.

25 Are there any task leaders that have any reports?

1           MEMBER BURROUGHS: I have one written -- I have  
2 one written report for our lower San Joaquin. And I  
3 will -- and I just want to just make one comment. Most of  
4 this has already been reported on some of the levee repair  
5 work that's been done, from Reggie Hill, working in the  
6 district. But he said that due to the temporary fixes of  
7 the levees, the Army Corps is still formulating a  
8 contingency plan to protect the City of Firebaugh, and --  
9 if there should be a levee failure this year. So  
10 there's -- most of the levee repair was temporary and  
11 still needs to be all taken care of.

12           And I believe you spoke with Jay and also with the  
13 Department of Water Resources. And they said that they  
14 hope that by next year, they could address some of the  
15 issues.

16           Thank you.

17           PRESIDENT CARTER: Okay. Any other task reports?

18           SECRETARY DOHERTY: I've got some concerns. We've  
19 got a project that might be coming before us. It's the  
20 Del Rio project. And I do have some concerns about it.  
21 I'm not through researching it yet, but I have visited the  
22 area, and I have talked to some of the landowners. I do  
23 have some more material to read now, and I'm going back to  
24 the landowners, and maybe I could report at a future date,  
25 what I find out.

1           PRESIDENT CARTER: Okay. Let's see, as far as  
2   Executive Committee update, Butch and I met with Les  
3   Harder and Keith Swanson from -- and also Jay -- a week  
4   ago. And much of that -- much of the discussion at that  
5   meeting focused around the bond initiatives and bond  
6   spending plans, all of which -- all the data that we saw  
7   was in the report from DWR and their budget expenditure  
8   plans. So you have all that information.

9           We also did talk about staffing, which Mr. Punia  
10   will address in the next -- in his general manager report.

11           Is there anything else I'm missing there, Butch or  
12   Jay?

13           VICE PRESIDENT HODGKINS: Let me just add one  
14   thing: I went to the Floodplain Management Association  
15   lunch yesterday. And at that meeting, Ricardo Pineda  
16   passed out a copy of the revised PowerPoint presentation  
17   for Flood Safe California. You may remember, that came  
18   before us, but he had a lot of -- and that's up on the Web  
19   site, although I don't remember specifically the address  
20   for it.

21           But he mentioned also that they are going to  
22   schedule, I assume, in the near future, seven public  
23   workshops to take that out and begin to get public input.  
24   So maybe it would be worthwhile if Mr. Punia could perhaps  
25   find out more of the details on that and get the Board

1 members an e-mail about when those public workshops are  
2 going to be held and where.

3 MEMBER RIE: I think there was one this morning,  
4 here at 9 o'clock.

5 VICE PRESIDENT HODGKINS: Is that right?

6 MEMBER RIE: Yeah.

7 VICE PRESIDENT HODGKINS: So the engineers are  
8 doing it again. They are out there trying to get  
9 something done.

10 PRESIDENT CARTER: Okay. Any other general Board  
11 comments?

12 Okay. Then Mr. Punia, Report of the Activities of  
13 General Manager.

14 GENERAL MANAGER PUNIA: Jay Punia, General  
15 Manager.

16 Status of the permits, during last year, 2006, we  
17 received about 160 applications. Out of these 160, about  
18 39 applications are still active. And the rest of the,  
19 about, 120 applications were processed by the staff.

20 Staff worked extremely hard. Mike Mirmazaheri group,  
21 Steve Bradley, and our legal staff need to be commended,  
22 to process that many projects.

23 San Joaquin Flood Protection Technical Advisory  
24 Committee meeting; I attended that meeting in Stockton.  
25 This is the --



1           MEMBER RIE: Question about the permits process  
2 before we go.

3           GENERAL MANAGER PUNIA: Yes.

4           MEMBER RIE: Were there any permits carried over  
5 from prior years, prior to 2006?

6           GENERAL MANAGER PUNIA: I need to go back and dig  
7 into this before answering this question. I will report  
8 back in next month's briefing.

9           MEMBER RIE: Okay. And can the Board members get  
10 copies of that?

11          GENERAL MANAGER PUNIA: Yes. I will be, in the  
12 future, giving you a copy of the active permits and where  
13 the status is.

14          MEMBER RIE: Okay.

15          GENERAL MANAGER PUNIA: San Joaquin Flood  
16 Protection Technical Advisory Committee, they invited me  
17 to talk to them about the role and responsibilities of the  
18 Reclamation Board.

19          And this committee is made up of mostly people  
20 around the Stockton area. And they are developing their  
21 own version of how the bond funding should be allocated.  
22 Mr. Dante Nomellini presented a paper in which they are  
23 coming up with their proposal that how the funding should  
24 be allocated, and they will be distributing that paper to  
25 the Board members and us, and to the Department of Water

1 Resources, in a wide circulation. Their proposal is that  
2 the money should be allocated per mile basis. They are  
3 coming up with their proposal, that normally who should  
4 get more than 3 million per mile and who normally should  
5 get around 300,000 per mile.

6 They were expressing concerns that some of the  
7 urban applicants are ready for the early implementation,  
8 whereas some of the rural areas are not ready. So they  
9 are concerned that the money may not be drawn by the urban  
10 folks, whereas the rural area may be left out.

11 So they are going to distribute this paper for the  
12 Reclamation's Board consideration and for the Department  
13 of Water Resources to consider.

14 During the same day, Atlas Tract people invited me  
15 to give a briefing of potential -- request to the  
16 Reclamation Board. Atlas Tract is in the Stockton area.  
17 The urban population close to that tract is protected by  
18 the urban levees.

19 In that area, a local developer has built a new  
20 levee. And in their judgment, there's no need of a  
21 federal flood control project levee, so they are seeking  
22 that the Board should request the U.S. Army Corps of  
23 Engineers that there's no need of federal levee, because  
24 they have built a new stronger levee. So obviously, this  
25 is a major issue. A major corps is needed, the U.S. Army

1 Corps of Engineers. They will be submitting documentation  
2 to the Board, and we will be bringing it to the Board.

3 We already covered the hydraulic impact analysis  
4 subject.

5 Budget change proposal; our two positions, which  
6 we requested in fiscal year 07/08 in the budget. One  
7 position we requested is for the senior engineer; the  
8 second position is associate government program analyst  
9 for administration support to the Reclamation Board.

10 So those positions will be available to us,  
11 starting July 1st.

12 But in the meantime, Rod and we were working so  
13 that we can jumpstart this and get a position borrowed  
14 from the Department and start the hiring process.

15 Rod informed today -- Rod Mayer informed me today  
16 that we got the go-ahead for our senior engineer position,  
17 so that we can start the paperwork to hire this person  
18 before July 1st.

19 So I will be working to get this advertisement  
20 starting Monday, so that we can bring somebody to help  
21 Steve and the Rec Board staff.

22 PRESIDENT CARTER: If given that, what's -- what  
23 do you think the lead time is in terms of having somebody  
24 in the office, working?

25 GENERAL MANAGER PUNIA: I would say the way the

1 process is set up, it will take at least a couple months  
2 before we can have a physical presence, because we have to  
3 go through the advertisement process and then interview  
4 process. And then -- at least two months, I would say.

5 MEMBER RIE: Are you guys planning to go put a  
6 notice out for people, already working here, to transfer?

7 GENERAL MANAGER PUNIA: That's correct. Our first  
8 approach will be to advertise in the Department's job  
9 opportunity bulletin and try to see people within the  
10 state service. And once we advertise, our positions  
11 people from within and other sister state agencies can  
12 apply on those positions.

13 And then our plan is to reassess, once we have  
14 these additional staff available to us. And then if  
15 needed, then we will be submitting another budget change  
16 proposal for fiscal year 08/09.

17 And Department -- Lester Snow is having a briefing  
18 on a weekly basis on a Flood Safe Initiative and  
19 development of the Flood Plan. And I am participating in  
20 those meetings with other DWR staff on a weekly basis.

21 I think that's it, what I have to report. If  
22 there are any question on any of these subjects or any  
23 other, I would be glad to answer.

24 MEMBER BURROUGHS: One question on staff. I  
25 congratulate you on getting the approval to get more staff

1 assigned to us. But if we have a huge amount of work  
2 that's coming through, to the Board, in the next two  
3 months, would it be possible to request DWR to loan us  
4 some staff in the interim, until we hire someone?

5 GENERAL MANAGER PUNIA: We discussed, in our  
6 executive committee meeting with President Ben and Vice  
7 President Butch Hodgkins, there are two or three things:  
8 One is to bring a retired annuitant. We have retired  
9 annuitant staff on the list from the Department. So we  
10 will be first trying to pick up people from the retired  
11 annuitant list, if they have sufficient experience and  
12 meets our need.

13 And then we can also hire admin -- like  
14 administration types to the Board. We will hire a student  
15 assistant. So these things are easier to implement than  
16 getting a new position from the Department of Water  
17 Resources.

18 But if those things are not meeting our need, then  
19 we will be seeking to borrow a position from the DWR.

20 PRESIDENT CARTER: Any other questions?

21 SECRETARY DOHERTY: Now, may I back up for a  
22 minute, back to Board comments and task leaders, because I  
23 don't have any questions for you, Jay.

24 PRESIDENT CARTER: Are there any questions for  
25 Jay?

1           VICE PRESIDENT HODGKINS: Just one. Jay, are  
2 these positions approved now or are they approved as the  
3 budget is approved?

4           GENERAL MANAGER PUNIA: They are in the budget.  
5 Still until the Legislature approves the budget, there's a  
6 slight chance that the Legislature may move any of these  
7 positions to someplace else, or they may delete it. But  
8 they are presently in the budget.

9           VICE PRESIDENT HODGKINS: But the new budget  
10 doesn't take effect until July. Can you do anything to  
11 hire these people before then?

12          GENERAL MANAGER PUNIA: That's -- we got these  
13 loan positions that we got authorization to hire at least  
14 one position of these two, before July 1st.

15          VICE PRESIDENT HODGKINS: Okay. I'm sorry. I  
16 must not have been listening.

17          PRESIDENT CARTER: So the senior engineer position  
18 will be filled as soon as possible, starting tomorrow --  
19 starting Monday.

20          SECRETARY DOHERTY: Okay. Now, I have a couple of  
21 questions: First of all, we stumbled on 16 and we  
22 stumbled and we stumbled. Maybe we should have stayed  
23 with 10 before 16. But what I want to know then, this  
24 letter clarified what we were trying to accomplish. Would  
25 it have been possible, once we come in here -- my binder

1 is divided up into sections. If I had, perhaps, had this  
2 letter ahead of time, had inserted it into Section 10.A,  
3 maybe had a chance to look at it, maybe it would have  
4 clarified things for us. But as each thing comes up,  
5 we're handed this at the very last minute. That's -- it's  
6 a problem for me.

7 MEMBER BURROUGHS: As it is for me. It is for me  
8 too. I think that anything that isn't presented in our  
9 Board packet, we shouldn't be asking.

10 SECRETARY DOHERTY: Especially when it calls for a  
11 motion.

12 MEMBER BURROUGHS: Yes, I agree.

13 GENERAL MANAGER PUNIA: Was it included in the  
14 package or not?

15 STAFF ASSISTANT PENDLEBURY: No, it was not  
16 included in the packet. It was e-mailed. I believe it  
17 was e-mailed.

18 MEMBER BURROUGHS: But only a few days ago.

19 STAFF ASSISTANT PENDLEBURY: That's when we got  
20 it.

21 MEMBER BURROUGHS: It just came in a couple days  
22 ago. But whether it comes via e-mail or hand delivery, if  
23 it isn't in a timely manner, I don't think that it is  
24 correct for us to have to make a decision on, specifically  
25 action items, if it's not in our Board packet. Because

1 you can't always depend on the e-mail to be working or --  
2 for a matter of fact, there has been several times I'm out  
3 of town, don't have access to e-mail, so I don't have  
4 access to the information until I get here.

5 I'm uncomfortable with that.

6 STAFF ASSISTANT PENDLEBURY: May I say something?

7 We have taken measures and if you take a look at  
8 your schedule for this year, I've kind of let you know  
9 what we have asked from the staff; that they get us the  
10 packets by the deadline date, and we are also saying that  
11 we will try -- we will be firm on it. We know there will  
12 be exceptions. But we are going to be firm that if it's  
13 not to us by the deadline date, it may not be put on the  
14 agenda. Okay?

15 The other thing I would like to say is: I was --  
16 to address your comment, Rose Marie, I was told that you  
17 folks didn't want to be burdened with a whole lot of paper  
18 until the item came up. My thought is that when I come  
19 in, whatever I have I would give to you beforehand. That  
20 way, you would have had the letter beforehand, because I  
21 did bring it with me. So that's something you will have  
22 to decide.

23 MEMBER RIE: I don't think we mind being burdened  
24 with paper. The more, the better. And on this chart,  
25 here, it says that staff is now attempting to e-mail the



1 staff reports as they come in, to avoid multiple overnight  
2 mailings. I know it's a pain and it's an expense, but I  
3 personally would prefer to get it overnight than I see  
4 it's Federal Express or UPS and it's urgent, then I open  
5 it immediately, whereas I get so many e-mails every day,  
6 that I don't have a chance to get to all my e-mails.

7 STAFF ASSISTANT PENDLEBURY: The e-mail is kept as  
8 a way of getting you something at the last minute. We do  
9 have the option of the overnight. But what we're really  
10 working on is to have the information, the supporting  
11 information in the packets, that go out on Wednesday, ten  
12 days before.

13 SECRETARY DOHERTY: I did read all my e-mails I  
14 got. I didn't run off copies because I knew I was getting  
15 copies here. I just do not remember seeing this one. I  
16 got the reports on activities of the Department of Water  
17 Resources, all of that.

18 STAFF ASSISTANT PENDLEBURY: So on our end, we're  
19 going to try and be better on getting this information.

20 MEMBER BURROUGHS: Well, you've improved greatly,  
21 and we appreciate all your effort and hard work.

22 I would also prefer that we just, rather than  
23 waste things, and not know if we miss something, I would  
24 prefer just that we have a deadline date, everything  
25 that's in comes that one time. If there's anything else

1 that's coming later, it doesn't get admitted to the Board  
2 meeting. That's my recommendation. Because if you  
3 have -- if you have five different things that are coming  
4 in at all different times, and you're not at home, and you  
5 are traveling, you don't know what you have missed. So I  
6 say we get one packet with all the information at the  
7 appropriate time. That's what I would like to try to  
8 shoot for. Thank you.

9 PRESIDENT CARTER: Okay. Any other Board comments  
10 on that?

11 With that we'll look at future agenda. Do we have  
12 a draft?

13 There were a few things that did come up today  
14 that are for future agendas. We talked about getting a --  
15 getting some information on the Caltrans TRLIA detention  
16 basin next month. That would be February.

17 Are we -- we talked about staff reviewing the  
18 Delta Levee subventions funding for RD 800.

19 Is that doable by next month?

20 LEGAL COUNSEL MORGAN: I would have to ask the  
21 Delta Levee subvention people. But I don't see why not.

22 PRESIDENT CARTER: Potentially that's next month.

23 MEMBER BURROUGHS: Before you move on for your  
24 action item for Three Rivers, I would like to request it  
25 to be an action item.

1           PRESIDENT CARTER: Specifically what action are  
2 you asking for?

3           MEMBER BURROUGHS: Well, in regard to the  
4 investigation and some of the questions that were raised  
5 here today. While we're getting a report back, I would  
6 like to have it as an action item to make sure that the  
7 permit is being followed through correctly.

8           PRESIDENT CARTER: But that would be -- you're  
9 asking the staff to advise the Board on whether or not the  
10 permit is being implemented properly.

11          MEMBER BURROUGHS: Isn't that one of the reports  
12 back to our Board?

13          And all I'm asking for is it to be an action item,  
14 in case there's issues we need to address, rather than  
15 just skimming a report.

16          PRESIDENT CARTER: Okay. I don't know.

17          Staff, how do you envision this investigation and  
18 report on the detention basin up there, of the Yuba River?

19          GENERAL MANAGER PUNIA: My vision is that we will  
20 send the inspector and he will have his inspection report  
21 and he will give the report to our chief engineer and that  
22 he will report back to you, that whether this work needs a  
23 permit from the Board or we -- I think depending on what's  
24 in the report, we have to take action that if it's  
25 definitely in need of a permit, then we will be right away

1 coordinating with them so that they can obtain a permit  
2 from us. And we will report back to the Board what's the  
3 status of that investigation.

4 Steve may have other things to add.

5 CHIEF ENGINEER BRADLEY: I think I would also like  
6 to coordinate with the Corps. You heard John Hess say  
7 they were looking into it. I think -- I talked with Rick  
8 Rinehart earlier today, and he said the design for that  
9 showed it was only two feet deep. That's not too much to  
10 worry, but he said he went out there the other day and  
11 it's somewhere between four and six feet deep. So they  
12 are looking into it. So there's a lot of people looking  
13 into this pit. Like I said, this was close enough that it  
14 probably should have been part of the project. Part of it  
15 was negotiations with Caltrans and some other things as to  
16 how this got implemented. Typical little hiccup there in  
17 an overall major project, but nothing major, I think, that  
18 we can't deal with.

19 PRESIDENT CARTER: It's very interesting that the  
20 permits -- that the design was two feet and it's now much  
21 deeper. Is Caltrans running this project or is TRLIA?

22 CHIEF ENGINEER BRADLEY: No, TRLIA is.

23 PRESIDENT CARTER: And if Rick Rinehart is the  
24 engineer on that, how come it's twice as deep as what the  
25 design is?

1 CHIEF ENGINEER BRADLEY: He's not the engineer.  
2 He's the program manager. HDR was the design and lead for  
3 this.

4 And that's what Rick said. He said the design was  
5 two feet. That was what he was told the other day. And  
6 he said they found out it's four to six. And he said,  
7 "We're looking into what the difference is, too, and why."

8 You know, could be that they are just  
9 over-excavating so they can compact it and make a very  
10 firm base for the detention basin.

11 I don't know what the reasons are.

12 MEMBER BURROUGHS: Well, I appreciate you  
13 mentioning the U.S. Army Corps engineering study, but I  
14 think it should be on the agenda, since he said it would  
15 be over a year, as an information item as well, for the  
16 future. He said he was happy to come today.

17 PRESIDENT CARTER: So I just, I -- unless this is  
18 an encroachment permit that requires Board action, many of  
19 which don't, the staff goes ahead and does that, I don't  
20 see a need -- we'll leave it to staff to determine whether  
21 or not it needs to be a Board action item or if it's an  
22 informational briefing.

23 CHIEF ENGINEER BRADLEY: If it turns out to be a  
24 permit issue, we'll probably put it under the permit  
25 section.

1           MEMBER BURROUGHS: Since there's unanswered  
2 questions and more reporting back, not only from the Corps  
3 but other ones, I'm still requesting that it be an action  
4 item.

5           SECRETARY DOHERTY: When you say "action item," do  
6 you mean that if there's a violation, they should cease  
7 and desist?

8           MEMBER BURROUGHS: No. I'm not proposing any --  
9 any action at all. I just want to be able to take action  
10 if need be. That's all.

11          PRESIDENT CARTER: Okay. So if staff feels that  
12 an action needs to be taken, then put it on there as an  
13 action item. If they don't, I think we ought to leave it  
14 to their discretion that it's just an informational  
15 briefing. There's no need to put it on as an action item  
16 if there's no action to be taken.

17          MEMBER BURROUGHS: At this point we don't know.

18          PRESIDENT CARTER: Right. And they will determine  
19 that in the meantime. Between now and the time the agenda  
20 comes, the staff will do their investigation to determine  
21 what's the appropriate listing on the agenda.

22          CHIEF ENGINEER BRADLEY: The agenda needs to state  
23 what action you want to be taken so that the public knows  
24 what's going to be addressed.

25          GENERAL MANAGER PUNIA: If there's a need for an

1 action item, Board Member Rose Marie, we will definitely  
2 have an action item. But based upon our investigation,  
3 there's no need of Board action, then we will inform you  
4 what the investigation is all about and why there was no  
5 need for an action from the Board.

6 MEMBER BURROUGHS: Okay. Well, with that, then, I  
7 would also request that we have legal counsel as well as  
8 staff comment on the issues that were stated today by  
9 CCRG.

10 Thank you.

11 PRESIDENT CARTER: Okay.

12 So you all have a proposed agenda in front of you,  
13 a draft agenda. Item 11, Reconsideration of the General  
14 Delegation of Authority. Mr. Morgan, could you tell us --  
15 speak to that.

16 LEGAL COUNSEL MORGAN: I presume this was a  
17 cut-and-paste job?

18 STAFF ASSISTANT PENDLEBURY: I was going to say  
19 that this is a -- pretty much of a shell. I left some  
20 items on, that I thought might come up again, the next  
21 month.

22 LEGAL COUNSEL MORGAN: Right. And since we didn't  
23 know what would happen with the records, we just left it  
24 on.

25 STAFF ASSISTANT PENDLEBURY: Yes.

1           LEGAL COUNSEL MORGAN: In light of what happened,  
2 we can take that off.

3           PRESIDENT CARTER: Item 11 is gone. Okay.

4           River Partners, tabled from today, potentially  
5 could come up next month.

6           And encroachment permit application.

7           MEMBER RIE: President Carter?

8           PRESIDENT CARTER: Yes.

9           MEMBER RIE: Could we have Ricardo Pineda come  
10 back? I know it was probably December, I think, when he  
11 was giving us the presentation on the map modernization.  
12 And he didn't have enough time, so he had to make his  
13 presentation very brief.

14           If we have time, I would like him to come back and  
15 give us an update.

16           PRESIDENT CARTER: Okay. Let's see if we can make  
17 that happen, if that would make sense.

18           VICE PRESIDENT HODGKINS: Is there any point in  
19 trying to talk about 40820, whatever it is? There was an  
20 opportunity for input to the Corps on standards for 408.  
21 Has anything happened?

22           LEGAL COUNSEL MORGAN: No. They had some sort of  
23 eclipsis on that. We have not developed any kind of a  
24 recommendation for the Corps. If you would like to have a  
25 discussion about that, we could.



1 VICE PRESIDENT HODGKINS: Well --

2 LEGAL COUNSEL MORGAN: I think it would be --

3 VICE PRESIDENT HODGKINS: I don't know if  
4 discussion makes as much sense as much as draft  
5 recommendations. So Ben -- not that I'm looking for more  
6 controversial issues.

7 MEMBER RIE: I believe the Corps is actually  
8 revising those guidelines yet again. So we may want to  
9 wait until they come out with their next draft with that.

10 MEMBER BURROUGHS: That would be easy to check  
11 with them on. Speaking about having people come back, one  
12 of the topics that's been here, present, and was present  
13 today, I would like to know if there's any recommendation  
14 of having a speaker come in to speak about global warming.

15 And also if we have room, either this month or  
16 next month, to have the Berkeley group that studies the  
17 report from the post effects of Katrina, I would be  
18 interested in hearing that.

19 MEMBER RIE: We could invite Al Gore.

20 (Laughter.)

21 LEGAL COUNSEL MORGAN: You know, you all laugh,  
22 but if you have ever watched his movie, it's something I  
23 recommend to the Board staff, who are making the  
24 presentations to the Board, as an example of how you make  
25 a presentation. It's a wonderful use of PowerPoint and

1 addressing a nontechnical audience and informing them of  
2 whatever your viewpoint is.

3 And so, after everyone watches it -- to see what  
4 they think of it is fine. But I always want the Board  
5 staff, the people who come up here and address this Board,  
6 see this because we have a very similar audience here, at  
7 the Board, and it's valuable for that.

8 SECRETARY DOHERTY: What is it?

9 LEGAL COUNSEL MORGAN: Al Gore's movie, "The  
10 Inconvenient Truth."

11 SECRETARY DOHERTY: Oh, okay.

12 LEGAL COUNSEL MORGAN: It's a PowerPoint  
13 presentation on film.

14 PRESIDENT CARTER: If you can stay awake.

15 MEMBER RIE: Right.

16 PRESIDENT CARTER: There was also a suggestion by  
17 Butch to form a subcommittee to review the Natomas work  
18 with SAFCA. That would require an action item. It would  
19 have to be agendized.

20 Shall I put that on the agenda, try and put that  
21 on the agenda for next month?

22 MEMBER RIE: Does SAFCA want a committee?

23 PRESIDENT CARTER: I didn't get a strong sense one  
24 way or the other.

25 MEMBER BURROUGHS: Personally, I'm not interested

1 in a subcommittee, but I would rather have all information  
2 presented to all the Board. That's my view.

3 Thank you.

4 PRESIDENT CARTER: We'll check with SAFCA, see if  
5 they are interested, and what the potential benefit of  
6 that subcommittee might be.

7 Any other suggestions?

8 SECRETARY DOHERTY: What happened -- whatever  
9 happened to the West Sac thing? Did it go away?

10 CHIEF ENGINEER BRADLEY: The -- you mean the  
11 project?

12 SECRETARY DOHERTY: Yeah.

13 CHIEF ENGINEER BRADLEY: It's still out there  
14 along with the docks. They are looking for some  
15 elevations. I looked. There's a 1957 profile. There's  
16 the profile in the O&M which doesn't correspond with that.  
17 There's a 1992 update, but they assume 180,000 coming out  
18 of the Sacramento River. And there's one more that I  
19 found. I can't remember which one that was.

20 So I need to sit down with the Corps. I actually  
21 have a meeting on the 24th with the docks people and the  
22 Corps. And maybe we can hack through some of this stuff.  
23 This is very confusing as to what we should be regulating.

24 PRESIDENT CARTER: Okay.

25 CHIEF ENGINEER BRADLEY: It would be nice to have

1 a new plan of flood control. But we're dealing with 50,  
2 60, 70 years of out-of-date stuff in a lot of ways.

3 MEMBER RIE: Well, if you have any new information  
4 after you meet with them, could we have Steve give a quick  
5 five-minute update on the next agenda?

6 But that's up to you, Steve.

7 CHIEF ENGINEER BRADLEY: We may not even come to  
8 any conclusion. I just -- like I said, I've done a little  
9 bit of work on this at various times. And like I said, I  
10 found four different profiles for what basically the urban  
11 reach between Power -- American River and about Miller  
12 Park.

13 PRESIDENT CARTER: Okay. I'm sure there will be  
14 plenty of other business to conduct that will materialize  
15 between now and the time we have to issue the agenda. So  
16 I know that it will fill up.

17 If there are no other suggestions, we'll proceed  
18 with these. And are there any other comments, concerns?

19 Yes. Mr. Punia?

20 GENERAL MANAGER PUNIA: Just want to coordinate  
21 with you what will be the best approach to sign this  
22 letter? Obviously, we would like to sign it as soon as  
23 possible, the letter to the U.S. Army Corps of Engineers,  
24 Section 104 credit. But the proposed changes, we could  
25 not -- I don't think we have the capability to make and

1 incorporate those changes right away.

2 STAFF ASSISTANT PENDLEBURY: The way Lori has  
3 handled it in the past is, if the change is on the first  
4 page, you can still sign the second page and we'll make  
5 the changes. I can e-mail you or forward a copy so you  
6 know that I have made the changes.

7 PRESIDENT CARTER: Can I trust you?

8 STAFF ASSISTANT PENDLEBURY: Absolutely not.

9 (Laughter.)

10 CHIEF ENGINEER BRADLEY: We will thank you in  
11 advance for the pay raises.

12 PRESIDENT CARTER: Well, Jay we can coordinate  
13 offline.

14 So we are adjourned.

15 (The Reclamation Board meeting adjourned at

16 4:51 p.m.)

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## 1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter  
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the  
5 foregoing Reclamation Board Meeting was reported in  
6 shorthand by me, Kathryn S. Kenyon, a Certified Shorthand  
7 Reporter of the State of California, and thereafter  
8 transcribed into typewriting.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said meeting nor in any  
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this  
13 29th day of January, 2007.

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